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THE VATICAN AND ST. JAMES'S.

THE

VATICAN AND ST. JAMES'S;

OR,

England, Independent of Rome.

WITH INTRODUCTORY REMARKS ON SPIRITUAL AND TEMPORAL POWER,

BY JAMES LORD,

OF THE INNER TEMPLE, ESQ., BARRISTER-AT-LAW;

AUTHOR OF "THE LAW AFFECTING THE GRANT TO MAYNOOTH COLLEGE," "THE THEORY AND PRACTICE OF CONVEYANCING," "THE MORTMAIN LAWS," "EXCOMMUNICATION," ETC., ETC.

"Fuit, fuit ista quondam in hac republicâ virtus, ut viri fortes acrioribus suppliciis, civem perniciosum, quàm acerbissimum hostem coercerent."—*Cicero in Catalinam.*

"I for one feel profoundly and increasingly anxious about this most serious business. Deadly mischief is intended against us; and is being effected, too, with an increasing audacity equally scandalous and alarming."—*Extract from a private note from Samuel Warren, Esq., F.R.S.*

LONDON:

SEELEYS, FLEET STREET, AND 2, HANOVER STREET, HANOVER SQUARE;

AND AT THE OFFICE OF THE PROTESTANT ASSOCIATION, 6, SERJEANTS'-INN, FLEET-STREET.

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ALEXANDER MACINTOSH,
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TO THE BRITISH NATION,

The following Work,

SHOWING

FROM LEGAL AND HISTORICAL EVIDENCE,

THAT THE BRITISH CROWN, CHURCH, CONSTITUTION,

AND PEOPLE, HAVE FROM ANCIENT TIME,

BEEN INDEPENDENT OF ROME,

AND THAT THE

RECENT PAPAL AGGRESSION IS ALIKE

A VIOLATION OF THE PRINCIPLES OF THE CONSTITUTION;

OF THE COMMON LAW;

AND OF THE STATUTE LAW OF THE REALM:

IS DEDICATED BY

THE AUTHOR.

PREFACE.

THE following work deserves the attentive perusal of British subjects. I am not recommending a book written by myself, or in which I have any interest, or I should refrain from using such expression. The chief portion of it consists of two deeply interesting, and important cases, in which a constitutional, legal, and historical review is taken of the aggressions of Rome, whether in spiritual or temporal matters, and of the mode in which such aggressions were met and resisted by our ancestors, whether Roman Catholic or Protestant.

If any should be inclined to repudiate the wisdom of the past; to reject the light which historic documents shed upon the dark and stealthy footprints of Popery; to contend that the enlightenment of the present day is too great for Rome to endure; let them bear in mind that though the essential nature of Romanism is not changed, she has acquired far better means of advancing her interests than she possessed centuries ago. And amongst the peculiar

features of the times which seem to favour her aggressions, this is not the least, that multitudes believe her harmless, or powerless, or her nature changed.

But whatever opinions may be formed or held respecting the relative bearing of the present and former times, it will be admitted that our ancestors had acquired, what we indeed seem disposed to learn from bitter experience, a practical knowledge of the evils of Popery; and the best mode of repelling its aggressions.

They were men, the bulk of whom were not overburdened perhaps with the refinements of learning or the jargon of the schools; but who took what in the present day would be called "a common sense view of the question." They knew and felt what Lord Chatham long afterwards expressed, that every man's house, by the laws of England, was his castle, that none dared to violate its sanctity; and they knew that independence of any foreign power was essential for the peace, the well-ordering of their country. They knew and felt that to admit foreign rule, to adopt it, instead of domestic legislation, in the affairs of a nation or kingdom; to acknowledge Rome either as a source of governing-power, or as a court of appeal, was to prepare the way for the destruction of peace and unanimity, and therewith of national independence, glory, and prosperity; for the disturbing of titles and property, for the disquieting of the realm, and casting all things, whether affecting those of the

Crown, the Church, or the people, upon the ocean of doubt and uncertainty, amidst which, Rome indeed might flourish, though this country might be in ruins; for the breaking up of the good old English institutions, and for the introduction of tyranny;—and often, therefore, did the Earls and Barons, as in one remarkable instance it is chronicled of them, with one voice exclaim, We will not change the laws of England, which hitherto have been used and approved. Statute of Merton, 20 Hen. 3, A.D. 1235.*

Such was the language used more than six hundred years ago. Is the Crown to be supposed more subservient to Rome now than then? Are the Earls, Barons, or the people less interested in or less determined to uphold domestic peace and prosperity with home-legislation, and Government, as opposed to foreign aggression, than were their ancestors six hundred years ago?

* And see *post* Caudrey's Case, p. 20.

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INTRODUCTION.

The contest.

The title of the present work is suggestive of its subject. One more deeply interesting and important could hardly occupy the minds of the United Church of England and Ireland and the people of the British Empire at this time. Two systems which have been from time, "whereof the memory of man runneth not to the contrary," opposed to each other, are brought prominently before our notice. England is again made the arena for those conflicts which for centuries wore and wasted the spirits, crippled the energies, and sacrificed the lives of our ancestors.

Is it to be supposed that either party will recede from the contest till a fresh victory has been achieved on the one hand, and a fresh defeat has been suffered on the other? No! The contest is meant by Rome to be final, absolute, and complete. It may be so; but may prove Rome's overthrow, not ours.

England has not provoked it.

England certainly has not invited the contest; she need not shrink from it. She dares not do so. Why, indeed, should she? Her divines and her statesmen may, for their learning and attainments, be placed

certainly in a position not inferior to the divines or statesmen of any Church or nation of the day, whether Protestant or Roman Catholic.

In art and science and manufactures, what has she to suffer by a comparison with other nations? In military and in naval matters her reputation and glory remain undiminished.

Statesmen foiled in attempts to win over Popery.

Where shall we look to find anything which may naturally be considered as a set-off against all this? We must look to Rome: aspiring, with professions of humility; powerful, amidst apparent weakness! The points in which England has suffered disaster and defeat are those wherein some of her ministers, lay and clerical, have sought to obliterate her really distinctive excellence, to make an alliance in national or in ecclesiastical matters with Rome, and in spite of religious and constitutional prohibitions, of the experience of the past, and the testimony of history, to invoke the aid of Rome in quelling the disturbances which her own principles have stirred up; in regulating disorders which Rome herself has created; in allaying agitation and animosities which she would gladly see increased; and in seeking Rome's co-operation in promoting the peace and prosperity of a Church which she would see distracted and destroyed —a Church which she denounces as heretical, and a nation which she regards as the one great barrier to her intrigues and ambition.

Is it presumptuous to suppose that many of our statesmen and divines have been in error

when making concessions or approximations to Rome, augmenting her power, or assimilating Protestantism to its errors, superstitions, or peculiarities? Is it presumptuous to suppose that many who, under an erroneous impression, have inflicted a wound and injury upon their Church and nation, will with frank manliness avow such error, repudiate such policy or proceedings, seek to heal the wound they have made, and repair the injury which they may have inflicted? I think not. I am prepared, however, to find repeated what has already frequently met my notice, that "we have heard enough of these matters, and are sick and tired of them." There may be much truth in some portion of this; but silence and quiescence, though they may be more agreeable, are not always so satisfactory, so safe, as energy and activity, nor so fitted for a crisis such as the present.

Terms of peace with Rome.

But the question recurs, However disposed we are for peace, is Rome disposed for peace? If so, upon what terms? Are they honourable terms? are they consistent with the glory of our Church and nation? are they consistent with our liberties, with our safety, and with our independence—nay, are the terms such as Rome would propose consistent with our existence? with, I do not mean our existence as individuals, but with our existence as a Church and nation, protesting against her errors in religion, her unwarrantable and dangerous assumptions in political, secular, and national affairs? We believe they are not. Abject submission is what Rome requires. Till we render it,

there is no basis of equality on which to lay the foundation of peace.

A right consideration of the real nature, objects, and designs of Popery compels us to answer in the negative. Looking even to the long and carefully prepared arrangements which have preceded this recent instance of Papal encroachment, we perceive the groundwork laid for the conversion of the entire nation, for the gradual subjugation of England to the Romish See, and a spirit manifested which shows the determinate resolution of men willing to stake their all upon the die, to conquer or to fall in their attempt at conquest. "Equidem nihil loci est segnitiæ neque socordiæ."

The "Tablet," of January 4, 1851, informs us—

Prayers for the conversion of England.

That "in 1839 Cardinal Wiseman, then President of the English College at Rome, drew up a form of prayers for the conversion of England to be used in the College."

That form of prayer, bearing on the obverse of the title page the impress of the "Catholic Institute of Great Britain," together with another copy published at Preston, I have long had in my possession, and at p. 41 of the former edition is the following:—"St. Thomas of Canterbury, who, as a faithful shepherd, didst lay down thy life in defence of thy flock, pray for England."

In a publication of his own, Dr. Wiseman more fully sets forth his veneration for the character, and his desire to follow the example, of St. Thomas à Becket, even "to the shedding of blood." "Fear

not," he says, in that publication,* "that the interests of religion will be jeopardized in my hands, least of all, where the cause of the Holy See is particularly concerned. 'Would to God you could bear with some of my folly! but do bear with me; for I am jealous of you, with the jealousy of God.'† But need I remind you, or others, of where or how I have been nourished in the faith; how from early youth, I have grown up under the very shadow of the apostolic chair; how week after week, I have knelt at the shrine of Peter, and there sworn him fealty; how I have served as good masters, successive Pontiffs in their very households, and have been admitted to confidence, and if I dare say it, friendship by them? And is it likely that I should be behind any other, be he neophyte, or Catholic of ancient stock, in defending the rights of my holy lord and master under Christ? or that I can require the summoning to watch with jealous eye any attempts to infringe them."

The Doctor then thus proceeds in the same line, and it is to these following remarks that I desire to invite special attention, because therein appears the *animus* which actuates the chief mover, or one of the chief movers, in the transaction; and we see something of the spirit in which, whether aggressively or defen-

* "Words of Peace and Justice, addressed to the Catholic Clergy and Laity of the London District, on the subject of Diplomatic relations with the Holy See." By the Right Rev. Nicholas Wiseman, D.D., Bishop of Melipotamus, Pro. V.A. L.D. London: Dolman. 1848.

† 2 Cor. x. 1.

sively, he is determined to push the claims and authority of the Roman Church:—

"The *second* altar at which I knelt in the Holy City, was that which marks the spot whereon St. Peter cemented the foundations of his unfailing throne, with his blood. The *first* was that of our own glorious St. Thomas. There I returned thanks for the great blessing of being admitted among his children. For two-and-twenty years, I daily knelt before the lively representation of his martyrdom; at that altar I partook ever of the bread of life; there, for the first time, I celebrated the Divine mysteries; at it I received the episcopal consecration. He was my patron, he my father, he my model. Daily have I prayed, and do pray to him, to give me his spirit of fortitude to fight the battles of the Church, if necessary unto the shedding of blood. And when withdrawn from the symbols of his patronage, by the supreme will of the late Pontiff, I sought the treasury of his relics at Sens, and with fervent importunity asked and obtained the mitre, which had crowned his martyred head, and I took myself from the shrine of the great confessor, defender of religious rights, St. Edmund, a part of that right arm, which so often was stretched forth to bless your forefathers."

Thomas à Becket, Dr. Wiseman's patron saint.

Oh lamentable effects of superstition over a mind, from which brighter and better things might have been expected! But who and what was this Thomas à Becket, "saint and martyr?" He had been in early life the boon companion of King Henry the Second.

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And when the See of Canterbury became vacant, King Henry, thinking that a complaisant, subservient Chancellor would make a submissive, or at least a quiet Archbishop, elevated the Chancellor to the vacant See.

The tone and manner of the Archbishop soon changed. He became as ascetic, as he had before been self-indulgent; as authoritative and imperious as he had before been subservient. He had played the sycophant, he now sought to play the tyrant. He did so for a time. He fell in the pursuit; and was held by Rome as a martyr and a saint. To advance the interests of his Church, and the dignity of his office, he set at nought his temporal sovereign, the good of his country, the wishes of his countrymen, and endangered the peace of society.

True, he evinced much self-denial—if that can be called self-denial which is the lopping off, or partial pruning, of one branch that another may grow more luxuriantly.

Theorists—their danger.

But here is another illustration of the danger of men committing themselves to theories—theories not always sound—and from the consequences of which, even when they are perceived to be tending towards evil, few comparatively have the power, or the manliness, to make an escape. Thus many have found themselves landed at a conclusion, and acting ultimately for the attainment of objects which at one time they would never have dreamt of even for a moment.

They who can thus laudate, as worthy of imitation, "even to the shedding of blood," that which, on the behalf of Becket, may be rightly termed rebellion and treason (*post*, page 93), are dangerous subjects, and subjects of a dangerous system; yet many such beyond doubt there are: reminding us of the graphic and striking expression used in one of the Church Services, by our ancestors, who knew what many yet have to learn of the real nature of Popery, that there were "such workers of iniquity, as turned religion into rebellion, and faith into faction."

Many would slur over the question, as one, after all, more a matter of opinion, than of any practical consequence or importance.

For years past, the British mind has been too intently occupied about affairs of a different character from those now forced by the Pope upon its notice, to have given any deep attention to the question.

Act of 1829.

In the year 1829, by what was termed the Catholic Emancipation Act, the question was supposed by many to be settled, and set at rest for ever. From that time to the present, various other important measures have, as it were, absorbed public attention, and the Church of Rome has been suffered, almost *sub silentio*, sometimes by stealth, sometimes with a little opposition, sometimes with a great deal of opposition, but still suffered, generally with success, to make her way. Thus, sometimes Bills have been brought in, and passed through Parliament, almost

before the public have been aware of their existence; or have been forced through the Legislature—to serve party purposes—against the better feelings of many, and the protests of an outraged people.

Those who from memory can compare the proceedings of the last ten or twenty, with those of the preceding fifty or sixty years,—or those, who from the perusal of history and an attentive observation, are qualified to judge, will bear testimony to the great change which has taken place in the nature, importance, and mode of transacting public business.

Rapidity of legislation, &c.

The present day is characterized by rapid and extraordinary movements. During a peace of more than thirty years, science has made gigantic marches, and intellectual progress has gone on with a rapidity heretofore unknown. The events of a century accumulate in an hour. Legislation, be it for good or for evil, partakes of the nature of the movement, and in turn imparts its own weight and impetus to it.

Things are estimated, not according to what is right, but according to what is expedient. A majority, though wrong, seem fondly to imagine that they have altered the nature of truth and error. Measures and institutions, upon which the glory and the safety of the empire depend—which our ancestors thought they had sealed with their blood for perpetual duration, have been, even while we admired them, fading from our sight; attacked by the foe—betrayed by the pretended friend—and undefended by ourselves.

There is far greater evil embodied in these re-

cent Papal aggressions, than many might at first imagine. Deadly mischief is intended, and is being inflicted. It looks like the resuscitation of a power, which our ancestors could scarcely withstand; long and anxious was their struggle to throw off the yoke of Popery; long and loudly did they protest; and though they succeeded at length, it was not without many a painful sacrifice of property, personal liberty, and life.

Serious mischief.

The monarchs of this country, almost from the earliest days to the present time, have seen the necessity for enacting provisions to check the usurping spirit of the Court and Church of Rome.

A State to be perfect must be independent. Foreign interference will sooner or later introduce divisions between the sovereign and the people. To say nothing of the history of other countries, that of our own is full of instances in support of this assertion, demonstrating most clearly that an undivided allegiance should be given to the sovereign of the country.

Henry I.

In the reign of Henry I., there was a dispute as to what by some might be esteemed a trifle, but which grew to great importance, between that monarch and Archbishop Anselm, as to the investiture of the bishops. The King called a Parliament, or great council; the lords and bishops joined the King; Anselm consented to refer the affair to the Parliament at the following Easter, thereby confessing the power of the Sovereign in Council, for such was the Senate of that day.

Here the matter in dispute appeared settled by the domestic Government; but during Anselm's stay at Rome, it was decreed that all ecclesiastics who should in future receive the investiture of their benefices from a layman, should be excommunicated!! Nor was this a mere *brutum fulmen*. Anselm felt he owed prior obedience to his *spiritual*, than to his temporal head, to his *Pope* than to his *Prince;* consequently, in obedience to the Pope's decree, he refused to do homage to the King, or to consecrate the bishops whom the King had appointed. On appealing to the Pope, the conduct of Anselm was justified. The King, however, was resolved to preserve a privilege received by him from his predecessors. He therefore commanded the Archbishop, as a subject of the realm, to obey his Sovereign. Anselm refused to violate his *conscience*, pleading that he could not disobey the Pope and the Synod in which he had himself voted. This reply drew forth from the British monarch the following indignant and spirited rejoinder:— *

"What is this to me?" said the King; "is the Synod of Rome to deprive me of the privileges of my predecessors? I will never suffer any person who refuses me the securities of a subject, to enjoy estates in my dominions."

Rome, which could lose nothing, at length gained the chief object of dispute by a compromise. The King was to renounce the right of investiture, and

Rome not much to lose, and has a chance of gaining.

* Townsend's Accusations of History, p. 83. Lond. 1845.

the bishops were permitted by the Pope to do homage for their temporalties.

King John.

What took place subsequently, in the reign of King John, is well known, and the foregoing instance is one of many, showing the continued collision and struggles between the Papal Court and the sovereigns of this country, which, whether they be referrible to the temporal or spiritual power of the Pope, have produced very disastrous consequences, and may do again.

The Reformation.

But at the Reformation the power of Popery was broken. King Henry VIII., who seems to have had little or no real attachment either to the Reformed or the Romish Church, but to have used each as best suited his own purposes, was a sturdy monarch—and instrumental in liberating this country from the debasing yoke of servitude which Rome imposes where she can. He saw the magnitude of the mischiefs caused by foreign interference, and on discovering the oath taken by the Bishops to the Pope, exclaimed to his Council: "Well-beloved subjects, we thought that the clergie of our realm had been our subjects *wholly*, but now we have well perceived that they be but *half* our subjects; yea, and *scarce* our subjects, for all the prelates at their consecration make an oath to the Pope clean contrarie to the oath that they make to us, so that they seem to be his subjects, and not ours." *

At the critical period of the Reformation some laws

* Hall's Chron. 205. 4to. Ed. 1550. In that of 1809 the page is 788, and see Appendix M., where the oath is given, and more of the King's speech, and the effect of the Commons' interference.

of a protective kind were more essential, in order to prevent intestine broils, to secure the safety of the throne and the tranquillity of the people. Indeed, on looking to the dates of the several Acts of Parliament passed in the reign of Elizabeth, and inquiring into the contemporary history of the time, it will be found that most, or all, were passed, either in consequence of the danger of the State from some hostile proceeding on the part of foreign powers, or from some discovery of treason on the part of her own subjects. It is vain to say the power of Rome is only spiritual. It interferes in temporal matters; and the Act of Supremacy, in the first part of her reign, was essential to the independence of the kingdom. It was then thought, as we deem it to be also now, a point of paramount importance, that the Queen should "have, under God, the sovereignty and rule over all manner of persons born within these her realms and dominions, so as no other power shall, or ought to have, any superiority over them."

Supremacy of the Crown.

The supremacy did not confer on the Queen the power of administering the sacraments or performing any sacerdotal office, it was confined to that right of administering justice which was ever considered due to the head of a nation. What could be more reasonable than this natural claim, which belongs to every sovereign to whom, in the providence of God, have been committed the peace and happiness of a people? All persons in public employments were obliged to swear in this political sense only, that they acknowledged the Queen to be the supreme governor in all

causes, as well ecclesiastical as temporal; that they renounced all foreign jurisdiction, and would bear the true allegiance to the Queen. Those who refused to take it were justly suspected of preferring allegiance to the Pope to the dominion of their temporal sovereign.

The good of her people, her own love of power, the lessons of experience, all united to convince her that the sovereignty of her State depended on the exclusion of all foreign authority.

Supremacy lodged in a foreign power dangerous.

This sovereignty, therefore, she wisely determined to secure: she transferred the supremacy of a foreign Pontiff to the legitimate magistrate.

In considering this question, one point of distinction should not be lost sight of. It is contended that those who oppose the supremacy of the Pope, ought to oppose the spiritual supremacy, claimed alike by the Established and the Free Church in Scotland. But the supremacy claimed by ecclesiastical persons in Scotland is very distinct in its nature, tendency, and effect from that claimed by the Church of Rome. The same evils can never be occasioned by it. It can never rise to the same plenitude of power in extent and intensity as that of the Roman Pontiff.

It is to be considered, too, that the ecclesiastical power or supremacy, whether claimed by the Free Church or other bodies in that country, not being Roman Catholic, would still be exercised by men who are bound by the dearest ties to their country, and are pledged to advance its interests. And even, in our own country should there be a supreme spiritual power, as distinct from a supreme temporal power, we

should still have a *domestic* temporal head, a domestic spiritual head, and a domestic Legislature.

Still might we say, notwithstanding some division and differences amongst ourselves, we are united against foreign aggression and foreign interference of every kind; still might we say, that no *foreign* prince, prelate, state, or potentate, hath, or ought to have, any jurisdiction within this realm of England.

Article of Church of England.

And with an Article of our Church, "The Bishop of Rome hath no jurisdiction in this realm of England,"* nor would any foreigner be suffered to interfere.

It is perfectly true, that those exercising spiritual power by virtue of their spiritual supremacy might not always exercise it with the greatest wisdom and discretion; for in human affairs there is no infallibility, and consequently, no perfection. Whatever individual or body may arrogate to himself, or receive as tribute from others, that attribute of DEITY, we know that such assumption is not warranted by Scripture, but rather repugnant to the Word of God.

Unpleasant collisions might, therefore, frequently arise from the very impossibility of defining the precise boundary line between temporal and spiritual matters.

Where does the division between spiritual and temporal begin?

The most expert casuist cannot do this. As it is difficult, if not impossible, to mark the point where light and darkness commence—or to define the exact line and shade where black and white, or differing

* See Article XXXVII.

colours, merge into one another, though so different in their extremes,—so is it impossible to mark with distinct accuracy what is spiritual and what is temporal, and so to apportion all the actions of a man's life or the affairs of a nation between the temporal and spiritual power exercised by separate tribunals, as that the one shall never interfere with the other.

Still the party exercising it would be influenced by no motives of promoting the interests of a foreign power.

With Popery, however, it is far otherwise. The supremacy ecclesiastical, is not domestic. It is foreign. It is not always friendly. It is frequently hostile. Hostile from a desire to promote its own interests or the interests of some other state of Europe; which either by intrigue or superior force may sway the counsels and decisions of the Vatican. Thus in the time of Buonaparte, the Pope was a prisoner. In the course of events, the Pope may be a prisoner again, or so far under the control of some great temporal ruler as to be compelled to exert his spiritual influence to advance the objects of such ruler, and to inflict deep injuries upon Great Britain. Be that, however, as it may, the power is professedly lodged in the hands of the Pope, in his Court, or the conclave of cardinals, who frequently have been known to exercise their power to upturn the very foundations of society.

Popery creates an *imperium in imperio*.

Popery creates an *imperium in imperio*, and herein is one great evil of it. It gives to a potentate out of the state, and uncontrolled by it, a power over the state and the subjects of it, a power the stronger as

it is riveted on its victims with all the sanctions of a false religion.

Much stress is sometimes laid upon the temporal power of the Pope—a power which he exercises in some of the Italian States;—which he has assumed also over the territories of princes, which many Romish writers ascribe to him, and which has never been renounced by sufficient authority.

I confess, however, that I am not so anxious as to his direct temporal power, as I am as to his spiritual power exercised over temporal matters. If any foreign temporal prince should wage war with us;—should lay claim to the throne of these dominions, or interfere with our domestic policy and arrangements, we could, relying on the God of battles, bid him bold defiance. Our armies would again go forth victorious by land, and our fleets triumphant on the deep.

The spiritual tyranny of Popery.

It is the spiritual tyrant, whom most we dread, against whose aggressions it is most difficult to guard. A tyrant whom no walls can keep out,—against whom no armaments can protect. Whose silent, secret influence prostrates the will of its submissive victims before it,—sows division within the camp,—and gains victory almost before its approach is known. It eludes the grasp of power. Armies and navies in vain oppose it. It overleaps the loftiest battlements. It penetrates the most secret recesses, it presents itself at the Council table, and in the Cabinets of princes. Attacking everything, yet itself eluding the grasp of all, it seems to resemble the lot of the

wandering Arab, whose hand is against every man, and every man's hand against him. One armour there is which can withstand it; it is the helmet of salvation and the shield of faith. One weapon there is which alone can hew it down;—it is the sword of the Spirit, which is the Word of God.

Popery:—not the Pope, but the system to be dreaded.

But people oftentimes scoff at all apprehensions from the returning power of Popery; with seeming satisfaction to themselves they point to the advanced age, and personal debility of the Roman pontiff, and ask if that infirm old man is he whose power we dread? Those, however, who thus argue, seem to be forgetful of the real source and nature of power. Power rests upon opinion. It is as great an error to measure the power of Popery by the power of the individual Pope, as it would be to measure the power of a nation by the personal strength of the individual sovereign who reigns over it. What makes the power of any European sovereign to be dreaded? The power of the nation, or people, of which the sovereign is the ruler. But there is no sovereign who has a more extended empire, a more numerous people,—a more powerful and better-disciplined army than the Pope. Therefore his power is great, and great care should be taken not to crouch before it, but to guard against it. He views the world as his empire, kings and queens as his subjects, all people as his soldiers. Priests, deans, bishops, archbishops, cardinals, monks, friars, nuns, and holy sisters, with the Jesuits, are the officers of his army; the general of each order being

at Rome, where the seventy cardinals meet in conclave, — and the confessional the conducting wires, by which, as with the rapidity of an electric shock, information is simultaneously conveyed and reconveyed to and from every part of the world.

Power and opinion.

What is power? What is supremacy? Where does it *nominally*, where does it *really* reside? Upon what does it rest? And how far is it in its nature permanent, or changing with the varying opinions of the day?

These are questions easily asked, but not so easily solved. People explain one term by another, and think they have made it intelligible. Power in its ordinary sense is well understood; the power of brute force,—physical, mechanical power,—the power of armies and navies. There is also the power of *opinion*, the power of *religion*, the power of *conscience*, dark or enlightened, *rightly* or *wrongly* directed.

If statesmen and theologians will proceed to legislate irrespective of these, or give them an inferior place, when making their estimate of power, if they will include nothing but visible brute force, they will leave out of their calculation many of the more powerful and efficient engines, whether of good or evil.

There is a power which is not always seen, but which is not therefore the less influential.

"All power whether of kings or priests, of states or churches, is founded upon *opinion* only. Neither knowledge, nor justice, nor law, nor experience, nor reason, nor the sword itself, can permanently sustain

an empire. The opinions of the people, whether right or wrong, give efficacy to the thunders of the Vatican, or the decisions of common sense. If the advocates of the Church of Rome now continue to defend the errors of the dark ages, and to convert their thousands and millions at their pleasure, the *thrones* of PRINCES *will be again at the disposal of the* PONTIFFS, whenever a race of active ruling priests shall once more court the powerful or terrify the weak." *

Religious opinion, its power and effects.

This it is—opinion, religious opinion, which has led contending armies to the battle-field,—has bowed the necks of the proudest monarchs, and made nations and people submissive to the Church of Rome. Her power, call it by what *name* we will, cannot be confined to spiritual matters. It guides, and overrules the conscience. Supremacy over the conscience, is supremacy over the man. The power of the priesthood, as pointed out by the Earl of Roden, whose experience of the practical workings of Popery, and whose long residence in Ireland and devoted attachment to the Protestant cause demand for his opinions the highest respect, "cannot be confined to spiritual, it will be extended to temporal things. The effect must be obvious. The laws of the land will be superseded by the laws of the Court of Rome; the authority of the Government and of the Queen, by that of the Pope and his 'Apostolical Vicars;' and by degrees the Roman Catholics will be led to feel that their allegiance is more due to a foreign power than to that

* "Accusations of History," page 88. London. 1845.

whose natural subjects they are. The alchemy of Rome can at all times transmute temporal things into spiritual, and *vice versâ*, and it will be impossible to place limits between the civil and ecclesiastical, between spiritual and temporal jurisdiction. In attempting to do so we shall find, when perhaps too late, that we have renewed, with a folly reckless of past experience, the contest which for centuries wasted the lives of our ancestors, and flung away with criminal prodigality the hard-earned yet cheaply-purchased victories, which they achieved over the pretensions of the Court of Rome." *

The confessional and excommunication.

The Church of Rome has a means of acquiring information, and a mode of enforcing obedience to her mandates, which no other system possesses. I refer to the confessional, and to excommunication. The former as the means of acquiring information, the latter an ecclesiastical sentence and punishment, which many regard as worse than civil or temporal death, and is a most powerful engine in her hands for enforcing obedience to her unjust decrees. Philosophers may deride it, but so long as people under the influence of a false religion have been taught to quail before it, some control ought to be exercised over the use of this formidable weapon.

From the Report of the Select Committee on regulation of Roman Catholic subjects in foreign states, we find that in Austria, no subjects of the empire could

* "Observations on Lord Alvanley's Pamphlet on the State of Ireland," &c. By the Earl of Roden. 1842. Pp. 27 and 28.

be excommunicated, without the Emperor's consent. Why should not the same regulation exist in Ireland, and throughout the whole of the dominions of Great Britain ?

Though excommunication is an act of spiritual power, temporal consequences flow from it.

The priest or bishop who can excommunicate a voter, who will not support a candidate in favour of the Church of Rome, has a control over that man's vote, and thus influences the return of Members of Parliament. Hence, we may have in St. Stephen's, those who have been elected, not by the free votes of independent electors, but on the nomination of Roman Catholic priests.

The influence of the priests at elections can scarcely be overrated. The organization of the Irish population is so simple and so complete, merely consisting in the blind and uninquiring obedience of the populace to their priests, that Dr. M'Hale was, perhaps, not far wrong, when he affirmed that "he would return a cow-boy for the important county of Galway." *

There is at this time a strong feeling amongst Roman Catholics themselves, as to the evils effected by Papal interference.

If ever, therefore, there was a time, it is now, that England expects every man to do his duty.†

Two passages from amongst many others in

* "Church of England Quarterly Review," July, 1839, p. 53.

† A portion of these remarks appeared in 1846 ; the feeling is stronger now—1851.

Caudrey's Case deserve here to be specially noticed. Sir Edward Coke tells us that,— Caudrey's Case.

"From the first until the eleventh year of the late Queen Elizabeth's reign, no person of what persuasion of Christian religion soever, at any time refused to come to the public Divine service celebrated in the Church of England, being evidently grounded upon the sacred and infallible word of Almighty God, and established by public authority within this realm; but after the Bull of Pius Quintus was published against her Majesty in the eleventh year of her reign, containing amongst other things too long to be repeated for this purpose, in these words:—'Pius, Bishop, and servant of God's servants, &c. She (Queen Eliz.) hath clean put away the sacrifice of the mass, prayers, fastings, &c., &c., &c.'

"After this Bull all they that depended on the Pope obeyed this Bull, disobeyed their gracious and natural Sovereign, and upon this occasion refused to come to the Church." Page 57.

Another passage is one setting forth the real grounds on which proceedings were had against Jesuits (p. 64):—

"By this, and by all the records of the indictments it appeareth, that these Jesuits and priests are not condemned and executed for their priesthood and profession, but for their treasonable and damnable persuasions and practices against the crowns and dignities of monarchs and absolute princes, who hold their kingdoms and dominions by lawful succession,

and by inherent birthright and descent of inheritance (according to the fundamental laws of this realm) immediately of Almighty God, and are not tenants of their kingdoms (as *they* would have it) at the will and pleasure of any foreign potentate whatsoever." *

What is to be done?

But what can now be done? What can be done? Is Great Britain yet so crippled by legislative concessions or by ministerial acts, that she is left powerless in the matter? Have the intrigues of official men—intrusted for a time with the institutions of their country upon their honour, if not upon their oath, not to betray them—brought matters to such a pass as this? Is England yet so crippled that she cannot do what for centuries past she has done, or might and could have done?

Can she not, as a Protestant nation, for her protection against Papal aggression, do what Roman Catholic nations have done to secure the independence of their own Church and country against the intrigues of the Vatican in almost every nation of Europe?

Can she not do what in the Papal kingdom of Sardinia has recently been done with one or two Papal Archbishops, who sought to overawe the Government, to defy or to evade the laws, and to assume a power superior to that of the temporal ruler?

Ireland.

Ireland, it is said, and England, form no parallel

* See Watson's "Important Considerations, or a Vindication of Queen Elizabeth from the Charge of Unjust Severity towards her Roman Catholic Subjects, by Roman Catholics themselves." Printed in 1601. Edited by the Rev. Joseph Mendham. London, 1831.

cases in their position and circumstances, and, therefore, are to form no parallel cases for legislation. This, however, if true, instead of removing, would but increase the difficulty—

"Point out the fault, but not the way to mend."

Lalor's Case. Lalor's Case, given hereafter, shows that the ancient statute law of the realm was held to apply to those who had received from the Bishop of Rome office, promotion, and jurisdiction of a spiritual character in Ireland, which the Pope, on the one hand, had no right to confer, nor the priest, on the other, any right to receive or exercise.

I do not quote the case of Lalor, as one precisely similar to that of the new Papal Archbishoprick, &c., though there are very many points of similitude between them.

The first few pages of Lalor's Case show this:—

Like Lalor, Dr. Wiseman has been for many years past of no mean credit and authority.

Like Lalor, Dr. Wiseman has "also made his name known in the Court of Rome."

Like Lalor, he has held intelligence with persons high in authority there; and like Lalor, for his devotedness to the "Holy See," he has obtained "*title* and *jurisdiction*," though carved by the Pope out of the prerogatives of the Crown and the temporal dominions of Great Britain.

Lalor obtained "the title and jurisdiction of Vicar-General of the See Apostolic, within the Archbishoprick of Dublin, and the Bishopricks of Kildare

and Ferns." This pretended jurisdiction he exercised for many years.

Like Lalor, Dr. Wiseman is promoted, and made, not a Vicar-General, but a Cardinal and an Archbishop, with a pretended jurisdiction extending over the newly-constituted Roman Catholic province of England, now happily restored to "its orbit in the ecclesiastical firmament." Here, we expect, the likeness ceases.

Lalor, in his defence, said, that he had been no suitor for the office of Vicar-General. Can Dr. Wiseman, or his advocates, with truth, say as much? This appears doubtful, if any weight is to be attached to certain rumours, if not to letters which have appeared in the public prints.

In the next item, the parallel in the particular instance fails entirely. We cannot say of "Wiseman" as it was and is said of Lalor.

Lalor was first indicted and convicted under an Irish stat., 2 Eliz. Subsequently, an indictment was framed against him in the King's Bench, upon the stat. of 16 Rich. 2, cap. 5, containing these several points:—

The indictment of Lalor under the stat. of 16 Rich. 2.

1. That he had received a Bull or Brief, purchased or procured in the Court of Rome, which Bull or Brief did touch or concern the King's crown and dignity royal, containing a commission of authority from the Pope of Rome unto Richard Brady, and David Magragh to constitute a Vicar-General for the See of Rome, by the name of the See Apostolic, in the several dioceses of Dublin, Kildare, and Ferns, within this kingdom of Ireland.

2. That by pretext or colour of that Bull or Brief, he was constituted Vicar-General of the See of Rome, and took upon him the style and title of Vicar-General in the said several dioceses.

3. That he did exercise ecclesiastical jurisdiction as Vicar-General of the See of Rome, by instituting divers persons to benefices with cure of souls, by granting dispensations in causes matrimonial, by pronouncing sentences of divorce between divers married persons, and by doing all other acts and things pertaining to episcopal jurisdiction, within the said several dioceses, against our sovereign Lord the King, his crown and dignity royal, and in contempt of his Majesty, and disherison of his crown, and contrary to the form and effect of the statute, &c.

To this indictment Lalor pleaded, not guilty; and when the issue was to be tried, the name and reputation of the man, and the nature of the cause, drew all the principal gentlemen both of the pale and provinces, that were in town, to the hearing of the matter. At which time, a substantial jury of the city of Dublin being sworn for the trial, and the points of the indictment being opened and set forth by the King's Serjeant; the Attorney-General thought it not impertinent, but very necessary, before he descended to the particular evidence against the prisoner, to inform and satisfy the hearers in two points.

"1. What reason moved us to ground this indictment upon the old statute of 16 Rich. 2, rather than

upon some other later law made since the time of King Henry 8.

" 2. What were the true causes of the making of this law of 16 Rich., and other formal laws against provisors, and such as did appeal to the Court of Rome in those times, when both the prince and people of England did for the most part acknowledge the Pope to be the thirteenth apostle, and only oracle in matters of religion, and did follow his doctrine in most of those points wherein we now dissent from him.

" 1. For the first point we did purposely forbear to proceed against him upon any latter law, to the end that such as were ignorant might be informed, that long before King Henry 8 was born, divers laws were made against the usurpation of the Bishop of Rome upon the rights of the Crown of England, well nigh as sharp and severe as any statutes which have been made in later times; and that therefore we made choice to proceed upon a law made more than 200 years past, when the King, the Lords and Commons, which made the laws, and the Judges which did interpret the laws, did for the most part follow the same opinions in religion, which were taught and held in the Court of Rome.

The true cause of making the stat. 16 Rich. 2. and other statutes against provisors.

" 2. For the second point, the causes that moved, and almost enforced the English nation to make this, and other statutes of the same nature, were of the greatest importance that could possibly arise in any state. For these laws were made to uphold and maintain the sovereignty of the King, the liberty of

the people, the common law, and the commonweal, which otherwise had been undermined and utterly ruined by the usurpation of the Bishop of Rome."

The Attorney-General thus proceeds :—

"Now, Master Lalor, what think you of these things? Did you believe that such laws as these had been made against the Pope 200, 250, 300 years since? Was King Henry 8 the first prince that opposed the Pope's usurped authority? Were our Protestants the first subjects that ever complained of the Court of Rome? Of what religion, think you, were the propounders and enacters of these laws? Were they good Catholics or good subjects? or what were they? You will not say they were Protestants, for you will not admit the reformed religion to be so ancient as those times; neither can you say they were undutiful, for they strove to uphold their liege Lord's sovereignty. Doubtless the people in those days did generally embrace the vulgar errors and superstitions of the Romish Church, and in that respect were Papists as well as you: but they had not learned the new doctrine of the Pope's supremacy, and transcendant authority over Kings; they did not believe he had power to depose princes, and discharge subjects of their allegiance, to abrogate the fundamental laws of kingdoms, and to impose his canons as binding laws upon all nations, without their consents; they thought it a good point of religion to be good subjects, to honour their King, to love their country, and to maintain the laws and liberties thereof, how-

These laws made by such as did profess the Romish religion.

soever in other points they did err and were misled with the Church of Rome.

"So as now, Master Lalor, you have no excuse, no evasion, but your conscience must condemn you as well as the law; since the law-makers in all ages, and all religious Papists and Protestants, do condemn you; unless you think yourself wiser than all the Bishops that were then in England, or all the Judges, who in those days were learned in the civil and canon laws as well as in the common laws of England."

Statute Law.

We come to the statute law; and here I have no doubt that amidst all the bitter disappointments which he has experienced since wearing his cardinalitial hat, Dr. Wiseman has often laughed heartily at our expense, and chuckled at the way in which "honest John Bull" has been "gulled," and suffered himself to be led by the nose, and every statute either to be repealed or deprived of those portions which could make it very effective against acts of Papal usurpation.

Well, we would not have had it so. But we may pluck safety from disappointment.

The common law remains; some statutory provisions still remain; and there still remains the spirit of the British nation, which will not suffer itself to be cajoled out of its liberties, independence, and religion by those who have said one thing, but meant another, and uttered promises never to be performed.

I had gone far in preparing for publication a work on the Statute Law of England, from Magna Charta

to the present time, on the subject of Papal interference with British rights and liberties, whether in matters civil or ecclesiastical. In that work it would have been my object to show that even in Romish times our ancestors protested against the tyranny of Papal usurpation; and why;—and what portions of such laws are applicable to the present day. Some portions of it have already appeared in the columns of the "Morning Herald."

To search out those acts which bear upon the question is a work of time and labour; while, to decide what are in force, and what portions, if any, have been repealed, is a work of yet greater magnitude; too great, indeed, to come within the compass of an introductory chapter. One of these letters is given *post*, Appendix K., p. 163.

It need not be a matter of wonder that Lord John Russell required on behalf of his Government time to have the law looked into, and that in his celebrated letter he should thus express himself:—

"Upon this subject, then, I will only say that the present state of the law shall be carefully examined, and the propriety of adopting any proceedings with reference to the recent assumption of power deliberately considered."

There has been such a tampering with constitutional enactments and provisions; such a nibbling at these various statutes, session after session, by piecemeal legislation, that the cords which were meant to restrain Popery are well nigh gnawed

asunder, and the Bulls of the Pope let loose to work all the mischief which the great enemy of our Church and country could require.

Perhaps I may be permitted to observe, that few are fully aware of the uncertainty in which some of our ancient Acts are involved, still less of the fact, that some of those framed in the earlier part of our history against heretics, were not real but supposed statutes passed, or supposed to be, by the intrigues and power of the Roman Catholic hierarchy of the day, sanctioned indeed by the Sovereign, whom they could in some cases control; and by the Peers, but without the consent of the Commons, and that they were subsequently disaffirmed by the Commons.* Sir Edward Coke, speaking in his time, says: "In perusing over the rolls of Parliament, we find divers Acts of Parliament in print, that are not of record in the rolls of Parliament. Secondly, many Acts of Parliament that be in the rolls of Parliament, and never yet printed. Thirdly, divers clauses omitted in the print, which are in the Parliament roll. Fourthly, more in the print than in the record. Fifthly, many variances between the print and the roll. Sixthly, statutes repealed or disaffirmed, and yet printed, &c. Seventhly, whole Parliaments omitted out of the print. Eighthly, whole Parliaments repealed, or a great part."

Instances of each are given, and as to the sixth,

* To some of these Bishop Burgess refers at the end of his "Protestant's Catechism," p. 66.

Sir Edward Coke proceeds thus: "The sixth, statutes pretended to be enacted, and after disaffirmed, and yet printed, 5 R. II. cap. 5, stat. 2, touching inquiries of heresies, *anno* 6 R. II. nu. 52, disaffirmed by the Commons, for that they protested it was never their meaning to be justified, and to binde themselves and their successors to the prelates no more than their ancestors had done before them. Robert Braibroke, Bishop of London, was then Lord Chancellor."

Other instances are given. And in another* place he thus writes: "There was a statute supposed to be made in 5 R. II., that Commissions should be by the Lord Chancellor made, and directed to sherifs and others, to arrest such as should be certified into the Chancery by the bishops and prelates, masters of divinity, to be preachers of heresies and notorious errors, their fautors, maintainers and abettors, and to hold them in strong prison, until they will justifie themselves to the law of holy Church. By color of this supposed act, certaine persons that held that images were not to be worshipped, &c., were holden in strong prison, until they (to redeem their vexation) miserably yeelded before these masters of divinity to take an oath, and did swear to worship images, which was against the morall and eternall law of Almighty God. We have said (by color of the said supposed statute, &c.), not only in respect of the said opinion, but in respect also, that the said supposed act, was in

Supposed statutes disaffirmed by the Commons.

* Coke, Fourth Institute, page 51.

truth *never any* Act of Parliament, though it was entred in the rolls of the Parliament, for that the Commons never gave their consent thereunto. And therefore in the next Parliament, the Commons preferred a Bill reciting the said supposed Act, and constantly affirmed, that they never assented thereunto, and therefore desired that the said supposed statute might be aniented, and declared to be void: for they protested, that it was never their intent to be justified, and to bind themselves and their successors to the prelates, more than their ancestor had done in times past: and hereunto the King gave his royall assent in these words, '*Y pleist au roy.*' And mark well the manner of the penning the Act: for seeing the Commons did not assent thereunto, the words of the Act be, It is ordained and assented in this present Parliament, that, &c. And so it was, being but by the King and the Lords.

"It is to be known, that of ancient time, when any Acts of Parliament were made, to the end the same might be published, and understood, especially before the use of printing came into England, the Acts of Parliament were ingrossed into parchment, and bundled up together with a writ in the King's name, under the great seal to the sheriff of every county, sometime in Latin, and sometime in French, to command the sheriff to proclaim the said statutes within his bayliwick, as well within liberties, as without. And this was the course of Parliamentary proceedings,

before printing came in use in England, and yet it continued after we had the print, till the reign of Henry VII."—3 Institute, c. 5, 40.

Papal tricks with Acts of Parliament.

"Now at the Parliament holden in 5 R. II., John Braibrook, Bishop of London, being Lord Chancellor of England, caused the said ordinance of the King, and Lords to be inserted into the Parliamentary writ of proclamation to be proclaimed amongst the Acts of Parliament, which writ I have seen, &c. But in the Parliamentary proclamation of the Acts passed in anno 6 R. II., the said Act of 6 R. II., whereby the said supposed Act of 5 R. II. was declared to be void, is omitted, and afterwards the said supposed Act of 5 R. II. was continually printed, and the said Act of 6 R. II. hath by the prelates been ever from time to time kept from the first.

"Certain men called Lollards were indicted for heresy upon the said statute of 2 H. IV., for these opinions, viz., Quod non est meritorium ad Sanctum Thomam nec ad Sanctam Mariam de Walsingham peregrinari. 2. Nec imagines, crucifixi, et aliorum sanctorum adorare. 3. Nulli sacerdoti confiteri nisi soli Deo, &c. Which opinions were so far from heresy as the makers of the statute of 1 Eliz. had great cause to limit what heresy was."—*Coke*, Third Institute, p. 41.

And, speaking of the inaccuracy in the transcription of our earlier statutes for the purpose of printing them, he says, with reference to the statute of provisors, a statute

passed by Roman Catholics to protect the Church and nation from the encroaching power of Rome,—

"[Note] In the roll of Parliament of the statute of Provisions there are more sharp and biting words against the Pope, than in the print, a 'mysterie often in use, but not to be knowne of all men.'"—2 Inst. 585, b.

But supposing that the statutory enactments, instead of being modified, as they have been, were all gone, that not only were the penalties removed, but the Acts themselves absolutely repealed and clean swept away; that we had not the Act of 16 Rich. II., c. 5, nor the portions which yet remain of 1 Eliz. c. 1, nor 2 Eliz. c. 13, nor the provisions of 10 Geo. IV. c. 7.* Still these are the principles of the Common Law, and there are the dictates of common sense, and of common safety, telling us to repel from our country, as we would repel from our own houses, a power which sought to usurp our place.

To such an invasion, we ought not to give place, by way of subjection or submission—no—not for an hour.

Let us for a moment see what Sir William Blackstone has written upon this subject:—†

"Having thus, in some degree, endeavoured to trace out the original and subsequent progress of the Papal usurpations in England, let us now return to the statutes of *præmunire*, which were framed to

* See *post*, Appendix G., p. 144.

† And see "National Protests before the Reformation." Seeleys, Hanover-street, and Fleet-street.

encounter this overgrown yet increasing evil. King Edward I., a wise and magnanimous prince, set himself in earnest to shake off the servile yoke. He would not suffer his bishops to attend a General Council, till they had sworn not to receive the Papal benediction. He made light of all Papal Bulls and processes: attacking Scotland in defiance of one; and seizing the temporalities of his clergy, who, under pretence of another, refused to pay a tax imposed by Parliament. He strengthened the statutes of mortmain; thereby closing the great gulph, in which all the lands of the kingdom were in danger of being swallowed. And, one of his subjects having obtained a Bull of excommunication against another, he ordered him to be executed as a traitor, according to the ancient law. And, in the thirty-fifth year of his reign, was made the first statute against Papal provisions, which, according to Sir Edward Coke, is the foundation of all the subsequent statutes of *præmunire;* which we rank as an offence immediately against the King, because *every encouragement of the Papal power is a diminution of the power of the Crown.*"—*Bl. Com.*, book iv. c. 8.

Then, in Caudrey's Case, p. 20, Sir Edward Coke gives us the following instance, from many others, which might be adduced to show, that even the absence of legislative enactments cannot deprive an independent Sovereign and nation of the right of resisting the aggression or intrusion of a foreign power, whether by himself or by his agents.

"In the reign of King Edward the First, a subject brought in a Bull of excommunication against another subject of this realm, and published it to the Lord Treasurer of England; and this was by the ancient Common Law of England adjudged treason against the King, his crown and dignity, for the which the offender should have been drawn and hanged: but at the great instance of the Chancellor and Treasurer, he was only abjured the realm for ever."

Protective provisions.

The horror some persons have of enforcing or of making any laws upon such subjects, reminds us of the morbid sensibility of those who would have England disarmed, while the continent of Europe teems with armed men and with military and naval preparations.

But do these men in their own private concerns act upon a similar principle? Do they suppose honesty so universal that there is no need for a police to parade the streets? for a magistracy to administer the law? or for locks, or doors, or fastenings to their houses?

Laws must be made to protect the good, to punish the bad. If complaint is to be made of the necessity of these, let the blame rest where it belongs, upon the bad principles, practices, and actions which have rendered necessary such enactments for the preservation of order, prosperity, and peace. We are not living in those days when—

> "All crimes shall cease, and ancient frauds shall fail;
> Returning justice lift aloft her scale;
> Peace o'er the world her olive wand extend,
> And white-robed innocence from heaven descend."

We may indeed theorize as we please, but we must not act upon theory to be safe. We must deal with realities as we *find* them; not as we could wish them, and whilst retaining all possible good feelings to those who may be the victims of error and delusion, it is beyond doubt a great mistake to suppose we can change the nature of evil by exposing ourselves to it, or that Popery is changed in its nature, and is otherwise than an inveterate opponent to the principles which we believe to be true; to the institutions which we venerate; to the liberties which we have so long enjoyed, and which we are resolved to maintain. Theory *v.* Practice.

"Bent, but not broken" was the power of Rome; but mistaking disarmed malignity for abated enmity, her promises have been believed by us, her pledges accepted, and her advocates and subjects admitted to the enjoyment of power: as Romanism has risen into power there has been a development of her nature, principles, and objects.

In 1846, one of the leading organs of Romanism thus expressed the contemptuous feelings of Rome for British legislation in matters affecting her interests. After speaking of the indignation with which many of their Liberal friends had viewed the interference of Rome, in the matter of certain colleges in Ireland, the writer proceeds as follows:—

"Calm your perturbation, ye excellent individuals, and submit with decent dignity to the inevitable. It is even so. It must be so. It will be so yet more and more. You are only at the beginning of

The Queen, Lords, and Commons set at nought.

your perplexity. The Pope will speak more loudly than ever, and what is more, he will be listened to. He will turn over your musty Acts of Parliament with finger and thumb, scrutinizing them with a most irreverent audacity; examining those which concern him; and when he has found these, rejecting some and 'tolerating' others, with as much freedom as *you* use when you handle oranges in a shop, selecting the soft and sweet, contemptuously rejecting the sour and the rotten. And then—oh! dreadful thought—he will insist upon being obeyed. The very slates of Exeter Hall must erect themselves in horror at the bare thought of such a thing. What! the Bill was read three times in each House of Parliament; it was twice passed; engrossed on parchment; garnished with a waxen appendage by way of seal; and has had over it pronounced by Royal lips the mysterious and creative fiat, *La Reine veut.* The Queen wills it; the Lords will it; the Commons will it. What does it want to complete the perfect fashion of a law? Nothing of solemnity, nothing of force, which the Imperial sceptre of this kingdom could give, is wanting to it. But truly, it may want the sanction of religion; the Pope snuffs disdainfully at it; an Italian priest will have none of it: it trenches upon his rights, or rather upon his duties; it violates the integrity of those interests which he is set to guard; and therefore Commons, Lords, Queen, wax, parchment, and all, avail it very little. You may call it law if you please. You may enter it on your roll.

You may print it in the yearly volume of your statutes. But before long you will have to repeal or alter it, in order to procure the sanction of a foreign potentate, without which it has not, in the end, the value of a tenpenny nail."—*Tablet, Sept.* 19, 1846.

But the question recurs, What is to be done? Here we are met again with the difficulty of Ireland. This question, we hear, has divided the Cabinet.

Various plans are spoken of, and Ireland need be no difficulty, or not the difficulty it has been, if a right policy were adopted with reference to that portion of the United Kingdom. We can have no compromise. England must not be saved at the expense of Ireland, and the Pope will indeed have gained high vantage-ground in the face of Europe if any Bill shall be brought forward and passed, which shall legalize in Ireland what it shall declare to be unlawful in England.

The present law.

If the present law be efficient would it not be far better to enforce the existing law, than to bring in an imperfect measure, which, by applying to England only, would seem to exclude Ireland and the Colonies, and by so seeming to exclude them altogether, or to postpone their interests, would appear to favour the inference some would be inclined to draw, that because they are not included they are specially excluded; that because it is declared to be illegal in England only, legislative silence implies it is declared to be lawful in Ireland?

I profess not to know the secrets of either party, though I have watched very closely the movements of each. In vain, however, have I looked for any indication from either side of that true, honest, sound, straightforward Protestant course which we had hoped for, and without which the nation can never rest satisfied or safe. There has existed, and still exists, much to create apprehension on the part of those who desire to see the encroachments of Popery resisted.

Whether there be any truth in the old adage that straws show which way the wind blows, we will not undertake to decide. Possibly it may depend upon how they are thrown up, and upon the presence or absence of influences more or less counteractive of the natural current. But certainly, there is some truth in this, that, generally speaking, the current of promotion indicates the views of those who have the disposal of it. There may be exceptional cases. But when we have long seen almost the entire preferment of the Established Church of a country distributed amongst those who favour a system deemed by the majority of the clergy of the Church of that country to favour Popery—when we find an appointment so important to the national interests as the government of Malta conferred on a Roman Catholic —another Roman Catholic sent out to fill a diplomatic post in Greece—and a third, whose acquaintance with diplomacy is certainly not equal to his attainments in

other matters, sent out to one of the most interesting and, in some sense, important spheres of diplomatic duties, chiefly because he is a Roman Catholic, there can be no doubt as to the views of some of those in power, or that some agency is so closely, heavily, and tightly pressing upon the springs of Government, that what should be the governing-power, is becoming a merely passive instrument in the hands of some unseen agency who move mysteriously, and at whose bidding, the preferment of the country is distributed.

Popery pressing on the Government.

However impaired and enfeebled;—the statute law, as well as the common law, still remains in force upon the subject.

The 7th and 8th Vict., c. 102, s. 1, repealed such portions of 1 Eliz., c. 1, relating to the supremacy of the Crown, as inflicted certain penalties for certain offences therein mentioned; but left still in force very important portions of that Act.

1 Eliz. c. 1.

The 9 and 10 Vict., c. 59, s. 1, went a little further, and repealed another portion of 1 Eliz., c. 1—left in force by the 7th and 8th Vict., c. 102—but contained a proviso that it should not make *lawful* the offences for the commission of which it then removed certain penalties.

This was not, however, going quite far enough. A third attempt was made to repeal something more of the same Act (1 Eliz., c. 1), and in November, 1847, Mr. Anstey brought in a Bill for that purpose, which was thrown out in 1848 (July 16). (See Appendix K, p. 167.)

13 Eliz. c. 2, s. 3, declares offence high treason.

The 13 Eliz., c. 2, s. 3, provided as follows:—That if any "shall obtain or get from the said Bishop of Rome or any his successors, or See of Rome, any manner of Bull, writing, or instrument, written or printed, containing any thing, matter, or cause whatsoever, or shall publish, or by any ways or means put in use, any such Bull, writing, or instrument, that then all and every such act and acts, offence and offences, shall be deemed and adjudged by the authority of this Act to be high treason, and the offender and offenders therein, their procurers, abettors, and counsellors to the fact and committing of the said offence or offences, shall be deemed and adjudged high traitors to the Queen and the realm, and being thereof lawfully indicted and attainted, according to the course of the laws of this realm, shall suffer pains of death, and also lose and forfeit all their lands, tenements, hereditaments, goods, and chattels, as in cases of high treason by the laws of this realm ought to be lost and forfeited."

Its punishment.

and 8 Vict. 102.

The 7th and 8th Vict., c. 102, did not touch 13 Eliz., c. 2, and the 9th and 10th Vict., c. 59, went so far only as to repeal portions of it as follows:—viz., so much of an Act passed in the thirteenth year of the reign of Queen Elizabeth, intituled, "An Act against the bringing in and putting in execution of Bulls, writings, or instruments, and other superstitious things from the See of Rome, so far only as the same imposes the penalties or punishments therein mentioned; but it is hereby declared, that nothing in this

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enactment contained shall authorize or render it lawful for any person or persons to import, bring in, or put in execution within this realm, any such Bulls, writings, or instruments, and that in all respects, save as to the said penalties or punishments, the law shall continue the same as if this enactment had not been made."

Mr. Anstey's Bill, thrown out in 1848, provided for the repeal of the whole of the Act of 13 Eliz., c. 2, "so far as concerned Roman Catholics."

But that intended repeal not taking place, the statute, subject to the modifications made by 9 and 10 Vict., c. 59, remains in force.

Now, this section, above quoted, s. 3 of 13 Eliz., c. 2, consists of two distinct parts,—

1. That declaratory of what should constitute an offence.

2. That declaring what shall be the penalty or punishment for such an offence.

The latter portion is repealed, while the former appears to be left standing.

So then the 16th Rich. 2, c. 5, with certain provisions of 1 Eliz., c. 1, 13 Eliz., c. 2, as well as those of 10 Geo. 4, c. 7, may be regarded as portions of the statute law which still remain in existence with reference to the recent insolent and insidious aggression of the Papal Court.

If, however, the Government doubt as to the efficiency of the law as it now stands, or the propriety of seeking to enforce it, could the Prime

New declaratory enactment.

Minister of this country adopt a course at once more popular and constitutional, than by meeting it with some new declaratory enactment?—than by coming down to the House of Commons, and stating, "that certainly the experiments made in favour of the Roman Catholics had not produced results by any means satisfactory and conclusive. That whatever there may have been in the Church, or out of it, theologically or politically, apparently favourable to the Church of Rome, yet that the Sovereign of the Roman States, by whomsoever advised, had been misinformed, and misadvised, or had misunderstood the genius and position of this country, and overrated his own, as regards this 'insolent and insidious' aggression.

"That while successive Governments, the most Liberal and the most Conservative, had accomplished the emancipation of Roman Catholics from the chains of slavery, as some would term it, they never intended to give Rome the power of rivetting the chains of slavery and spiritual despotism on the people of this country. That the Roman Catholics were more enslaved by the principles of their own system, than by British legislation, and that the Papal Court had of late manifested an intention of grasping after power, where only toleration was intended: and of establishing supremacy, where only or not more than equality could be conceded. That by the principles, and indeed by decided cases at Common Law, those taking part in the Papal aggression were in various ways amenable

to the bar of justice in this country, whilst the statute law had been in repeated instances notoriously evaded or violated. That it did not appear to him desirable to give any parties the opportunity of stating that those so taking part in the recent Papal aggressions, were proceeded against under any of what some might term the unknown, obsolete, or forgotten principles of the Common Law, or what they might term, the vindictive provisions of any statutory law, but that Her Majesty's Government had deemed it better to provide a new measure for this offence, declaratory of the Common Law and the Statute Law, applicable to Ireland and the colonies, as well as to England; a statute which by being now passed, as he trusted it would, with the nearly unanimous consent of each House of Parliament—and receiving the assent of the Crown, would meet the approbation also of those out of doors; would convince those who had entertained doubts upon the subject, that this Church and nation were not about to relinquish the blessings of civil and religious liberty—the twin glories of the land; the religious blessings purchased at the Reformation in the sixteenth century; and the civil and political blessings secured to them by the Revolution in the seventeenth century; events to which this Church and country owe too much ever to be guilty of a forgetfulness or betrayal of them."

In the present state of the public mind it is well

CAUDREY'S CASE.

OF THE KING'S ECCLESIASTICAL LAW.

CAUDREY'S CASE.

HILARY, 37 ELIZ. IN THE QUEEN'S BENCH.

COKE'S REPORTS.—PART V. EDITION OF 1826.

In this case is contained a brief epitome, compiled with the proverbial learning and the exact care of Sir Edward Coke, with reference to Papal interference in the affairs of this Church and nation, showing from legal, historical, and constitutional evidence, that the British Crown, Church, and people, have from ancient time resisted and been independent of Rome.

* Father John Parsons, the Jesuit, published anonymously "An Answere to the fifth part of Reports lately set forth by Syr Edward Coke, Knight, the King's Attorney-Generall, concerning the Ancient and Moderne Municipal Lawes of England, which do apperteyne to spiritual power and jurisdiction. By occasion whereof, &c. Imprinted with license, anno domini, 1606, 4to."

Sir Edward Coke in his Preface to the Sixth Report, pages 13 to 17, while declining to enter upon the angry controversy into which Parsons had sought to drive him, says, page 15,—"The cause that I cannot reply is, for that I have only reported the text, and as it were, the very voice of the ancient laws of this realm, proved and approved in all successions of ages, as well by universal consent in Parliament, as by the judgments and resolutions of the reverend Judges and sages, of their common laws, in their judicial proceedings, which they gave upon their oath and conscience."

That portion of this case, which bears more immediately on the points raised by the recent Papal aggression, 1850-1, commences at page 16. From that page to the end of the case, is contained a more clear and succinct epitome of Papal

* There is a copy of this book in the library of the British Museum, and in that of the Inner Temple.

aggressions, and Protestant resistance, affecting this realm, than is to be found in the writings of any other lawyer, or any statesman, historian, or divine, of which this nation can boast.—J. L.

Skin.468.486. 490. 493. &c. 1 Sal. 134. Pref. Burn. E. L. Burn. E. L. Vol. I., pp. 132, 235. Vol.II. pp. 40. 142. Vol. III., pp. 258, 378.

In the term of St. Hilary, in the 33d year of the reign of Queen Elizabeth, Rotulo 340, Robert Caudrey, clerk, brought an action of trespass against George Atton, for breaking of his close at North Luffenham, in the county of Rutland, the 7th day of August, in the 31st year of the reign of the said late Queen: the defendant pleaded not guilty, and the jury returned and sworn for trial of this issue gave a special verdict,

Hargr.Tr.465

that is, they found the truth of the case at large, referring the same for the law to the judgment of the Court, to this effect: they found that the plaintiff before the trespass supposed to be done, was parson of the rectory of South Luffenham, in the county aforesaid, whereof the place wherein the trespass is alleged

† 1 Eliz. c. 1. s. 17. 16 Car. c. 11. Cawley 1, 2, 3, &c. 4 Inst. 324,525. Cr. Jac. 37. [* 1 b.] Moor, 755. Parsons' Answer, 57.

was parcel, and found the statute made in the †first year of the said late Queen's reign, by which in effect it is enacted, that such jurisdiction ecclesiastical, as by any spiritual or ecclesiastical * power hath heretofore been, or may lawfully be exercised for the visitation of the ecclesiastical estate and persons, and for reformation, order, and correction of the same, and of all manner of errors, heresies, schisms, abuses, offences, contempts, and enormities, within this realm, should for ever be united and annexed to the imperial Crown of this realm. And that her Highness, her heirs, and

successors, "should have full power and authority, by virtue of that Act, by letters patent under the great seal of England, to assign, nominate, and authorize such persons, being natural born subjects, as her Highness, her heirs, or successors, should think meet, to exercise and execute under her Highness, her heirs, and successors, all and all manner of jurisdiction, privileges, and pre-eminences in any wise touching or concerning any spiritual or ecclesiastical jurisdiction within this realm of England and Ireland; and to visit, reform, redress, order, correct, and amend, all such errors, heresies, schisms, abuses, offences, contempts, and enormities whatsoever, which by any (manner) spiritual or ecclesiastical power, authority, or jurisdiction can or may lawfully be reformed, ordered, redressed, corrected, restrained, or amended to * the [* 2 a.] pleasure of Almighty God, the increase of virtue, and the conservation of the peace and unity of this realm. And also that such persons so to be named, assigned and authorized, should have full power and authority, by virtue of that Act, and of such letters patent under her Highness, her heirs, and successors, to exercise, use, or execute all the premises, according to the tenor and effect of the said letters patent, any matter or cause to the contrary notwithstanding." And afterwards the said Queen by her letters patent under the great seal of England, bearing date the ninth day of December in the six and twentieth year of her reign, according to the tenor of the said Act, did authorize the Archbishop of Canterbury, the

Repealed by stat. 16 Car. 1. cap. 11, s. 3.

Bishop of London, and divers others, or any three or more of them, to inquire amongst others, of the statute of the first year of her reign concerning the Book of Common Prayer, with this clause also contained in the said letters patent, *videlicet:* Also we give and grant full power and authority to reform, redress, order, correct and amend in all places of this realm, all errors, heresies, schisms, abuses, contempts, and enormities, spiritual or ecclesiastical whatsoever, which
[* 2 b.] by any * spiritual or ecclesiastical power and authority or jurisdiction, can or may lawfully be reformed, ordered, redressed, corrected, restrained or amended by the censures ecclesiastical, deprivation, or otherwise, &c. And upon proof thereof had, and the offences aforesaid, or any of them sufficiently proved against any person or persons, by confession, lawful witness, or by any due manner, &c., that then you or three of you shall have full power and authority to order and award such punishment to every such offender by fine, imprisonment, censure of the Church, or otherwise, or by all or any the said ways, and to take such order for the redress of the same, as by your wisdoms and discretions shall be thought meet and convenient, as by the said letters patent more at large appeareth.

Stat. 1 El. c. 2. Sect. 4, 5, 6. And further they found the "statute of the first year of the reign of the said late Queen, by which it is enacted, that the offender against that Act concerning the uniformity of Common Prayer, and being thereof lawfully convicted, according to the laws of the realm, by verdict of twelve men, or by his confession, or by

the notorious evidence of the fact, should forfeit for the first offence the value of his spiritual living for one whole year, and should suffer six months' *imprison- [* 3 a.]
ment. For the second offence to be committed after such conviction, he should be deprived, *ipso facto*, of all his spiritual livings. And for the third offence to be committed after two convictions, as is aforesaid, he should be deprived of all his ecclesiastical livings, and be imprisoned during his life." And that the said Robert Caudrey, before the time of the trespass supposed, was deprived of his said benefice before the said High Commissioners, as well for that he had preached against the said book of Common Prayer, as also for that he refused to celebrate Divine service according to the said book, and showed particularly wherein: which said sentence of deprivation was given by the Bishop of (*a*) London, *cum assensu*, A.B., C.D., &c., *collegarum suorum*. And the jury concluded their verdict; that if the said deprivation were not warranted by law, but void, then they found the defendant guilty of the trespass: and if the deprivation were not void in law, then they found the defendant not guilty. And this case was solemnly and oftentimes debated at bar by the Counsel of either party, and at the bench by the Judges, and after great and long deliberation and consultation had with the rest of the Judges, was in the Term of St. Hilary, in the thirty-seventh year of * the said Queen adjudged. [* 3 b.]

(*a*) Poph. 59. post. 4.

The objections of the Counsel of the plaintiff.

And it was argued by the Counsel of the plaintiff, that the said deprivation was void for four causes.

[1] First, the said book of Common Prayer being authorized and commanded to be observed by the said Act of the first year of the Queen upon the forfeitures and punishments therein comprised, the offence of the plaintiff is against that Act, for that Act only doth command the observation of the said book and inflicteth punishments in several degrees for depraving or not observing of the same, and consequently, if the offence be against that Act, the plaintiff ought to have been proceeded withal, and punished according to the same: and it was said that the said Act was an Act of great moderation and equity, for the offender for the first offence should not be *ipso facto* deprived, but should only lose the profits of his ecclesiastical livings for one year, and suffer imprisonment for six months, to the end that such as were froward might have a time to repent, and the well minded a time to consent; and such care had the Act, of the offenders in this behalf, as if they committed one offence, and then another, and after the second many more; yet should not the offender be deprived for any of the latter offences, unless he had been first judicially convicted
[* 4 a.] of record * by verdict of twelve men, or by confession, or notorious evidence of the fact: so as the second offence, for which he must be deprived by the said Act, must be done and committed after such a judicial and solemn conviction and punishment according to the said Act; and, then if such an open punishment and infliction should not give him understanding, and open his heart to repent: then upon a like conviction

for a second offence, to be committed after such a conviction, deprivation should follow. But in the case now in question, Caudrey, the plaintiff, was deprived from his said parsonage of South Luffenham, for his said first offence, being never convented or convicted for any such offence before. And therefore it was concluded for this first point, that the said High Commissioners had not pursued the form and order prescribed by the said Act; et non observata forma infertur adnullatio actus, and consequently the deprivation of the plaintiff is void, and therefore judgment ought to be given for him. And it was said by the plaintiff's Counsel, by way of anticipation, that albeit there was a proviso in the same Act for Archbishops, Bishops, and their Chancellors, Commissaries, Archdeacons, and other Ordinaries, having peculiar jurisdiction, *yet that did not give any strength to [*4 b.] the said deprivation for two causes. First, that the Commissioners, by force of the said Act of 1 Eliz., and of the said letters patent, are not within the said proviso, but only Archbishops and Bishops, their Chancellors, Commissaries, &c., in respect of their ordinary jurisdiction. 2. Admitting it should extend to the said High Commissioners, yet ought they to proceed according to the form and order of the said Act, for an offence done against that Act. Secondly, [2] it was objected by the Counsel for the plaintiff, that Caudrey the plaintiff was not deprived either by the verdict of twelve men, or by confession, or by the notorious evidence of the fact, but by default in respect

he appeared not, being duly precognizated or warned, which case as it was objected, was (*a*) casus omissus, and oblivioni datus, and not within the said Act. Thirdly, it was objected on behalf of the plaintiff, that the said sentence given by the said High Commissioners, was utterly void, for that they or any three or more of them having authority by force of the said Act, and of the said letters patent under the great seal, ought to join in the sentence, and that one alone with the (*b*) consent of two or more of the other Commissioners cannot give a sentence, for that every Commissioner * hath equal authority, and by the said letters patent three or more must give the sentence with consent of others, and such a judgment given by any Commissioners of Oyer and Terminer, or other Commissioners or Judges of the Common Law, were utterly void and of none effect. Fourthly, and lastly, it was objected, that the said Commissioners were not nominated and appointed according to the said Act; for the jurisdiction and power given by the said (*a*) Act to the Crown, is to name such Commissioners as be natural-born subjects; and it doth not appear by the said special verdict that the said Commissioners were natural-born subjects; and albeit the Judges as private men in their particular knowledge did know them to be (*b*) natural-born subjects, yet they being Judges of record, ought only to see with judicial eyes, and to take knowledge of no more than doth appear to them within the record; for upon that, and not upon private knowledge out of the record, they only must

(*a*) 5 Co. 2. b. 37 b.

[3]

(*b*) Poph. 59. Ante 3. a. Post 7. a.

[* 5 a.]

[4]

(*a*) 1 El. c. 1. s. 18.

(*b*) Poph. 59, 60.

give their judgment, and upon that record enter their judgment also of record. And seeing that the late Queen had, as it was said by the plaintiff's Counsel, ecclesiastical jurisdiction, by the said Act of Parliament, and by the same power was given unto her to name * [* 5 b.] ecclesiastical Commissioners, she of necessity must make her nomination according to the said Act, having no other power, as was objected, but by the said Act: and seeing it was not specially found that they were natural-born subjects: et (*c*) de non apparentibus et non existentibus eadem est ratio: for this cause also the said sentence of deprivation was void, as given by Commissioners not warranted by the said Act.

(*c*) 4 Co. 47. a. Vaugh. 72. 12 Co. 52. Hob. 295. Palm. 15. 3 Bulst. 100. 2 Inst. 20.

As to the first and second objection, both being grounded upon the said (*d*) Act of Parliament, it was resolved by the whole Court, that notwithstanding these two objections, the sentence was not to be impeached for either of them, and that for three causes. First, for that the said Act concerning the uniformity of Common Prayer, being in the (*a*) affirmative, doth not abrogate or take away the jurisdiction ecclesiastical, unless words in the negative had been added, as, "and not otherwise, or in no other manner or form," or to the like effect: and this appeareth by the general rule of all our books, as it appeareth in 46 Ed. 3, 4; 47 Ed. 3, 10; 20 H. 6, 11; 36 H. 6, 3; 3 Ed. 4, 27; 3 H. 7, 1; 14 H. 7, 10; 15 H. 7, 16; 33 H. 8; Dyer 50. 4. Mar. Dy. 135. Stradling's case, Pl. Com. 207, &c.

The resolutions of the Court to the first and second.

(*d*) 2 Roll. 222. W. Jones 393.

(*a*) 2 Roll. 222. Poph. 60. 11 Co. 64. a.

Q. how the Com. Law could be extended to the Book of Com. Prayer, which was only constituted by stat. 6. *Note to former ed.*

In *Middleton* v. *Crofts* 2 Atk. 673, [* 6 a.]

¶ 2. The ecclesiastical law and the * temporal law have several proceedings, and to several ends; the one being temporal to inflict punishment upon the body, lands, or goods; the other being spiritual, pro salute animæ, the one to punish the outward man, the other to reform the inward: and this appeareth in 12 H. 7, 22, and 10 Ed. 4, 10, &c. Then both these distinct and several jurisdictions consist and stand well together, and do join in this: to have the whole man inwardly and outwardly reformed.

This is said to be a distinction without a real difference, for all punishment is intended for the reformation of the offender and an example to others; and this is the end both of the ecclesiastical censure, and the temporal penalty when they are both inflicted immediately and directly for the same thing; otherwise where the ecclesiastical censure is for the criminal Act, and the temporal penalty for a fraud.

To the third.

¶ 3. The proviso in the said Act doth make this question without question, for by it, it is provided, ordained, and enacted by the authority aforesaid, that all and singular Archbishops and Bishops, and every of their Chancellors, Commissaries, Archdeacons, and other Ordinaries, having any peculiar ecclesiastical jurisdiction, should have full power and authority by virtue of that Act, as well to inquire in their visitation, synods, and elsewhere within their jurisdiction, as at any other time and place, to take accusations and informations of all and every the things above mentioned, done, committed, or perpetrated within the limits of their jurisdiction and authority, and punish the same by admonition, excommunication, sequestration, or deprivation, and other * censures and process in like form as heretofore had been used in like cases by the Queen's ecclesiastical laws, as by the said Act appeareth. So as seeing, if that Act had never

[* 6 b.]

inflicted any punishment for depraving or not observing the Book of Common Prayer, yet the same being allowed and commanded to be observed for uniformity of Common Prayer, and the unity and peace of the Church: the ecclesiastical Judge may deprive such Parson, Vicar, &c., as shall deprave or not observe the said Book, as well for the first offence, as he might have done by the censures of the Church, and the ecclesiastical laws, as if no form of punishment had been inflicted by that Act; and this doth evidently appear by the said proviso: for thereby notwithstanding anything in that Act contained, they may punish such offenders by admonition, excommunication, sequestration, or deprivation, and other censures and process, in like form as heretofore hath been used in like cases by the Queen's ecclesiastical laws, and are not bound to pursue the form prescribed by the said Act, which is to punish the offender according to the temporal law. And it was resolved, that if the jurisdiction of the Archbishops and *Bishops and their Chancellors, Commissaries, Archdeacons, and other Ordinaries, having any peculiar ecclesiastical jurisdiction were provided for by the said Act; *à fortiori* the high Commissioners authorized by another Act in the same Parliament were *tacitè* provided for; quia(*a*) cui licet quod majus est, non debet quod minus est non licere. As to the third objection it was also resolved by the whole Court, that the sentence given by the Bishop, by the consent of his (*b*) colleagues, was such as the Judges

Q.

See Skin. 491, 493, &c.

See the quære before p. 9.

[* 7 a.]

(*a*) 4 Co. 23. a. 9 Co. 48. b. Father Parsons, 86.

To the third,

(*b*) Poph. 59. Ante 3. a. 4. b.

of the common law ought to allow to be given according to the ecclesiastical laws: for seeing their authority is to proceed and give sentence in ecclesiastical causes, according to the ecclesiastical law, and they have given a sentence in a cause ecclesiastical upon their proceedings, by force of that law; the Judges of the common law ought to give (*c*) faith and credit to their sentence, and to allow it to be done according to the ecclesiastical law; for (*d*) cuilibet in suà arte perito est credendum. And this is the common received opinion of all our books, as appeareth 11 H. 7, 9; 34 H. 6, 14, &c.; and in (*e*) Buntin and Leppingwel's case, in the Fourth part of my Reports: and this is the usual form of all the sentences in their Ecclesiastical Courts: and this very point, Tr. 23. * Reginæ Eliz. in this Court between (*f*) Cheyney and Frankwell, all the matter being found, as this case is by special verdict, was adjudged.

(*c*) 2 Roll. 7. 7 Co. 42. b. 4 Co. 29. a. 8 Co. 135. b. 2 Vent. 43. Cawley 31.

(*d*) 4 Co. 29. a. 7 Co. 19. a. Calvin's case. Co. Lit. 125. a. 2 Leon. 176. Cawley 31.

(*e*) 4 Co. 29. a.

[* 7 b.]

(*f*) 2 Leon. 176, 177. 2 Roll. 224.

To the fourth.

As to the fourth objection, *videlicet;* "that the said late Queen had only power by force of the said Act, to nominate Commissioners for ecclesiastical causes, and therefore the aforesaid nomination not pursuing the authority given unto her by that Act should be void." Hereunto a threefold answer was given and resolved by the whole Court. 1. That they which were Commissioners, and had places of judicature over the King's subjects, should be (*a*) intended to be subjects born and not aliens: but if in verity they were aliens, yet in respect of the general intendment to the contrary, it ought to be

(*a*) W. Jones 68.

alleged and proved by the other party; for (*b*) stabitur præsumptioni donec probetur in contrarium. 2. The jurors have found that the Queen by her said letters patent did authorize them secundum formam statuti prædicti: and therefore it doth by necessary consequence amount to as much as if they had found they had been subjects born: for if they were not subjects born, they could not be authorized secundum formam statuti prædicti. Vide 11 H. 4, 4. 13 Eliz. Dyer fol. And the rather, for that this is found by special verdict. 3. It * was resolved, that the said Act of the first year of the said late Queen concerning ecclesiastical jurisdiction, was not a statute introductory of a new law, but (*c*) declaratory of the old, which appeareth as well by the title of the said Act, *videlicet*, "An Act restoring to the Crown the ancient jurisdiction over the state ecclesiastical and spiritual," &c., as also by the body of the Act in divers parts thereof. For that Act doth not (*d*) annex any jurisdiction to the Crown, but that which in truth was, or of right ought to be by the ancient laws of the realm parcel of the King's jurisdiction, and united to his imperial Crown, and which lawfully had been, or might be exercised within the realm: the end of which jurisdiction, and of all the proceeding thereupon was, that all things might be done in causes ecclesiastical to the pleasure of Almighty God, the increase of virtue, and the conservation of the peace and unity of this realm, as by divers parts of the said Act appeareth: and therefore as by that Act

(*b*) 2 Co. 48. a. 4 Co. 71. b. 6 Co. 73. b. Co. Lit. 373. b. 2 Bulstr. 314. Hob. 297.

[* 8 a.]

(*c*) 4 Inst. 325. Cawley, 5, 6. Cr. Jac. 37. Moor. 755.

(*d*) Cawley 8.

no pretended jurisdiction exercised within this realm, being either ungodly or repugnant to the prerogative or the ancient law of the Crown of this realm, was or could be restored to the same Crown, according to the ancient right and law of the same: so if that
[* 8 b.] * Act of the first year of the late Queen had never been made, it was resolved by all the Judges, that the King or Queen of England for the time being may
(a) 4. Inst. 326 Cr. Jac. 37. Hetl. 19. (a) make such an ecclesiastical commission as is before mentioned, by the ancient prerogative and law of England. And therefore by the ancient laws of this
(b) Post 28. b. realm, this kingdom of England is an absolute (b) empire and monarchy consisting of one head, which is the King, and of a body politic, compact and compounded of many, and almost infinite several, and yet well agreeing members: all which the law divideth into two several parts, that is to say, "the clergy and the laity," both of them, next and immediately under God, subject and obedient to the head: also the kingly head of this politic body is instituted and furnished
(c) Hob. 17. with (c) plenary and entire power, prerogative and jurisdiction, to render justice and right to every part and member of this body, of what estate, degree, or calling soever, in all causes ecclesiastical or temporal, otherwise he should not be a head of the whole body. And as in temporal causes, the King, by the mouth of the judges in his Courts of justice, doth judge
(a) Co. Lit. 96. a. b. 344. a. What causes belong to the [* 9 a.] and determine the same by the temporal laws of England: (a) so in causes ecclesiastical and spiritual, as namely, blasphemy, * apostasy from Christianity,

heresies, schisms, ordering, admissions, institution of clerks, celebration of Divine service, rights of matrimony, divorces, general bastardy, subtraction and right of tithes, oblations, obventions, dilapidations, reparation of churches, probates of testaments, administrations and accounts upon the same, simony, incests, fornications, adulteries, solicitation of chastity, pensions, procurations, appeals in ecclesiastical causes, commutation of penance, and others, (the conusance whereof belongs not to the common laws of England,) the same are to be determined and decided by ecclesiastical judges, according to the King's ecclesiastical laws of this realm: for as the Romans fetching divers laws from (*b*) Athens, yet being approved and allowed by the estate there, called them notwithstanding Jus civile Romanorum: and as the (*c*) Normans borrowing all or most of their laws from England, yet baptized them by the name of the laws or customs of Normandy: so albeit the Kings of England derived their ecclesiastical laws from others, yet so many as were proved, approved, and allowed here, by and with a general consent, are aptly and rightly called, the (*d*) King's Ecclesiastical Laws of England, which * whosoever shall deny, he denieth that the King hath full and plenary power to deliver justice in all causes to all his subjects, or to punish all crimes and offences within his kingdom: for that as before it appeareth, the deciding of matters so many, and of so great importance, are not within the conusance of the Common laws, and consequently that the King is no

ecclesiastical Courts, see Circumspecte agatis 13 E. 1. 13 E. 1. W. 2. c. 5. versus finem. Artic: cleri 9 E. 2. 15 E. 3. c. 6. 31 E. 3. c. 11. 2 H. 5. cap. 7. 1 H. 7. cap. 4. 23 H. 8. cap. 9. 24 H. 8. c. 12. 27 H. 8. c. 20. 32 H. 8. c. 7. 1 E. 6. c. 2. 2. E. 6. c. 13. 1 Mar. cap. 3. 1 Eliz. c. 1. 5 Eliz. c. 23. 13 Eliz. c. 10. Lit. lib. 2. cap. Frankal. f. 30. F.N.B. f. 41, 42, 43, 44, 45, 46, 47. Reg. f. 33, 34, 44.

(*b*) Dav. 71. a.
(*c*) Præf. ad. 3. Rep. circa finem.

(*d*) Co. Lit. 11. b. Dr. [* 9 b.] Cousins's Apology, 10.

complete monarch, nor head, of the whole and entire body of the realm.

(*a*) Parsons' answer to the Fifth Rep. 93.

But (*a*) to confirm those that hold the truth, and to satisfy such as being not instructed, know not the ancient and modern laws and customs of England, (every man being persuaded as he is taught,) these few demonstrative proofs out of the laws of England, instead of many, in order *et serie temporum*, are here added.

(*b*) This King reigned A.D. 755. Stamford lib. 3. c. 38. f. 111. Full.Ch. Hist. 101, 102. Parsons' answer, 93, 94, 95. Dav. 73 a. Br. Coron. 129. Moore 120. Stanf. Coron. 111 b. Burn. Reform. Pars 1. lib. 3. f. 187. This chapter was pleaded, 1 H. 7. 23. 25. N. A Catholic [* 10 a] in a book intitled A Sober Reckoning with Thomas Morton, page 509, shews that this charter was of the grant of the Pope, as well as the King; and

King (*b*) Kenulph, &c., by his letters patent hath, with the advice and consent of his bishops and senators, of his people (*i.e.*, in a Parliament) granted to the monastery of Abingdon, in the county of Berks, and to one Ruchny, then Abbot of the said monastery a certain portion of his (demesne) lands, *viz.*, fifteen tenements (or farms) in a place which by the country people was then called Culnam, with all the profits thereto belonging, as well in great things as in small, for an eternal inheritance; and that the said Ruchny, &c., shall be for ever free from all episcopal * jurisdiction; so that the inhabitants thereof may not (hereafter) be oppressed with the yoke of bishops or their officials; but in all events of things and discussion of causes be subject (only) to the Abbot of the monastery aforesaid. So that, &c. As by the said charter pleaded in 1 Hen. 7. and vouched by Stanford, at large appeareth: which charter granted above 850 years since, was after

shews some sentences in the charter here omitted. And Bro. Tit. Corone pl. 129 shews, that it was pleaded the confirmation of the Pope. *Note to former edit.* Rex Edwin. regnavit Anno Dom. 955.

confirmed per Edwinum Britanniæ Anglorum regem et monarcham : by (*c*) which it appeareth that the King by his charter made in Parliament (for it appeareth to be made by the counsel and consent of his bishops and senators of his kingdom which were assembled in Parliament) did discharge and exempt the said Abbot, &c., from the jurisdiction of the bishop, &c. And by the same charter did grant to the said Abbot ecclesiastical jurisdiction within his said abbey, which ecclesiastical jurisdiction being derived from the Crown, continued until the dissolution of the said abbey, in the reign of King Henry the Eighth.

(*c*) Full. Ch. Hist. 102. Parsons' Answer, 94.

In the Reign of King Edward the Confessor.

The King, who is the Vicar of the Highest King, is ordained to this end, that he should govern and rule the kingdom and people of the (*a*) land, and above all things the holy Church, and that he defend the same * from wrong doers, and destroy and root out workers of mischief. And this shall suffice for many before the conquest.

S. K. Edw. Laws, c. 19.

(*a*) Spelm. Coun. tom. 1, page 63.

[* 10 b.]

In the Reign of King William I.

It is agreed that no man can make any appropriation of any church having cure of souls, being (*b*) a thing ecclesiastical, and to be made to some person ecclesiastical, but he that hath ecclesiastical jurisdiction : but William (*c*) the First of himself without any

7 E. 3. Tit. Quare impedit, 19.

(*b*) Dav. 73. a.

(*c*) Seld. Not. ad. Eadmer. 165.

other, (as King of (*d*) England,) made appropriation of churches with cure to ecclesiastical persons; wherefore it followeth that he had ecclesiastical jurisdiction.

(*d*) Burnet's Reform. Pars I. lib. 3. f. 187. Hob. 17. Doct. James's case.

In the Reign of King Henry I.

The charter of H. 1. founder of the Abbey of Reading in the 26th year of his reign, and in the year of our Lord 1125.

Henry, by the grace of God King of England, Duke of Normans: to all archbishops, bishops, abbots, earls, barons, and to all Christians as well present as to come, &c. We do ordain as well in regard of ecclesiastical as royal power, that whensoever the Abbot of Reading shall die, that all the possessions of the monastery wheresoever they are, do remain entire and free with all the rights and customs thereof, in the hands and disposition * of the Prior and the Monks of the Chapter of Reading: we do therefore ordain and establish this ordinance to be observed for ever, because the Abbot of Reading hath no revenues proper and peculiar to himself but common with his brethren: whosoever by God's will shall be appointed abbot in his place by canonical election, may not dispend the alms of the abbey by ill usage with his secular kinsmen, or any other, but in entertaining the poor pilgrims and strangers, and that he have a care not to give out the rent-lands in fee, neither that he make any servitors or soldiers, but in the sacred garment of Christ, wherein let him be advisedly provident he entertain not young ones, but that he entertain men of ripe age, or discreet, as well clerks, as laymen.

[* 11 a.]

In the Reign of King Henry III.

In all the time of H. 3, and his progenitors Kings of England, and ever since, if any man did sue before any Judge ecclesiastical within the realm for anything whereof that Court by allowance and custom had not lawful conusance, the King did ever by his writ under the great seal prohibit them to proceed: and if the suggestion made to the King, whereupon * the prohibition was grounded, were after found untrue, then the King by his writ of consultation under his great seal, did allow and permit them to proceed. Also, in all the reign of Henry 3, and his progenitors Kings of England, and ever since, if any issue were joined upon the loyalty of marriage, general bastardy, or such like, the King did ever write to the Bishop of that diocese, as immediate officer and minister to his court to certify the loyalty of marriage, bastardy, or such like; all which do † apparently prove, that those ecclesiastical courts were under the King's jurisdiction and commandment, and that one of the courts were so necessarily incident to the other, as the one without the other could not deliver justice to the parties, as well in these particular cases as in a number of cases before specified, whereof the King's Ecclesiastical Court hath jurisdiction. Now to command, and to be obeyed, belong to sovereign and supreme Government.

2 H. 3. Tit. Prohibit. 13. 4 H. 3. Ib. 15. 15 H. 3. Tit. Prohib. 22. Register fol. F. N. B. Tit. Prohib. 40, 41, &c.

[* 11 b.]

Vide post 15. b.

By the ancient canons and decrees of the Church of Rome the issue born before solemnization of mar-

† Plane. See note at end of Caudrey's Case, p. 67.

riage is as lawful inheritable (marriage following), as the issue born after marriage; but this was never allowed or appointed in England, and therefore was never of any force here: and this appeareth by the statute of

[* 12 a.]

The statute of Merton an. 20. H. 3. c. 9.

* Merton, made in the 20th year of King Henry III.

To the King's writ of bastardy, whether one being born before matrimony may inherit in like manner, as he that is born after matrimony; all the Bishops answered that they would not, nor could not answer to it, because it was directly against the common order of the Church; and all the Bishops instanced the Lords, that they would consent, that all such as were born before matrimony should be legitimate, as well as they that be born within matrimony, as to the succession of inheritance, forasmuch as the Church accepteth such to be legitimate: and all the Earls and Barons with one voice answered, We (*a*) will not change the laws of England which hitherto have been used and approved.

(*a*) Moore 120. Præf. 4 Rep. vii. Co. Lit. 245. a. 2 Inst. 96, 97.

In the Reign of King Edward the First.

Vide 30 E. 3. lib. Ass. pl. 19. Brooke tit. Præmunire pl. 10. Note. This was by the Common Law of England before any stat. made. *Note in the original edition.*

In the reign of King Edward the First, a subject brought in a bull of excommunication against another subject of this realm, and published it to the Lord Treasurer of England; and this was by the ancient Common Law of England adjudged treason against the King, his crown and dignity, for the *which the offender should have been drawn and hanged: but at the great instance of the Chancellor and Treasurer, he was only abjured the realm for ever.

[* 12 b.]

The said King Edward I. presented his clerk to a benefice within the province of York, who was refused by the Archbishop, for that the Pope by way of provision had conferred it on another; the King thereupon brought a Quare non admisit, the Archbishop pleaded that the Bishop of Rome had long time before provided to the said Church as one having supreme authority in that case, and that he durst not, nor had power to put *him* out, which was by the Pope's Bull in possession: for which his high contempt against the King, his crown and dignity, in refusing to execute his sovereign's commandment, fearing to do it against the Pope's provision, by judgment of the Common Law, the lands of his whole bishoprick were seised into the King's hands and lost during his life; which judgment was also before any statute or Act of Parliament was made in that case. And there it is said, that for the like offence, the Archbishop of Canterbury had been in worse case by the judgment of the sages of the law, than to be *punished for a contempt, if the King had not extended grace and favour to him.

19 E. 3. tit. Quare non admisit 7. Vide 39 E. 3. 20.

[* 13 a.]

Concerning men twice married (called bigami) whom the Bishop of Rome by a constitution made at the Council of Lyons hath excluded from all privilege of clergy, whereupon certain prelates (when such persons have been attainted for felons) have prayed for to have them delivered as clerks which were made bigami before the same constitution. It is agreed and declared before the King and his Council, that

The statute of Bigamis in an. 4 E. 1. Observe how the King by advice of his Council (that is by authority of Parliament) expounded how the said Council should be

understood, and in what sense it should be received and allowed here. *Note in the original edition.*

the same constitution shall be understood in this wise, that whether they were bigami before the same constitution or after, they shall not from henceforth be delivered to the Prelates, but justice shall be executed upon them as upon other lay people.

Statutum de anno 25 E. 1. Carlisle. Vide 20 E. 3. tit. Essoin 24. It was anno 35 Ed. 1. See Parsons' answer to Coke's 5 Rep. fol. 276, sect. 36.

In an Act made at a Parliament holden at Carlisle in the 25th year of the said King Edward the First, it is declared, that the holy Church of England was founded in the state of prelacy within the realm of England, by the King and his progenitors, &c., for them to inform the people in the law of God, and to keep hospitality, give alms, and do other works of charity, &c. And the said Kings in times past were wont to have their advice and counsel for the safeguard of the realm when they had need of such *prelates and clerks so advanced; the Bishop of Rome usurping the seigniories of such benefices, did give and grant the same benefices to aliens which did never dwell in England, and to Cardinals which might not dwell here, &c., in adnullation of the state of the holy Church of England, disherison of the King, Earls, Barons, and other nobles of the realm, and in offence and destruction of the laws and rights of this realm, and against the good disposition and will of the first founders; it was enacted by the King, by assent of all the lords and commonalty in full Parliament; that the said oppressions, grievances, and damage in this realm from thenceforth should not be suffered, as more at large appeareth by that Act.

[* 13 b.] Note. The first attempt was to usurp upon such ecclesiastical things as pertained to the clergy of England, who at that time stood in great awe of the Church of Rome. *Note in the original edition.*

Post 18. a.

In the Reign of King Edward the Second.

Albeit by the ordinance of Circumspecte agatis, made in the 13th year of Edward I., and by general allowance and usage, the Ecclesiastical Court held plea of tithes, obventions, oblations, mortuaries, redemptions of penance, laying of violent hands upon a clerk, defamations, &c., yet did not the clergy think themselves assured nor quiet from prohibition * purchased by subjects, until that King Edward the 2d., by his letters patent under the great seal, in and by consent of Parliament, upon the petitions of the clergy, had granted unto them to have jurisdiction in those cases. The King, in a Parliament holden in the 9th year of his reign, after particular answers made to their petitions, concerning the matters abovesaid, doth grant and give his royal assent in these words:

[* 14 a.] The statute of 9 E. 2. Artic. Cleri, c. 16.

See the ordinance of Circumspecte agatis, 13 E. 1. to this effect.

"We desiring, as much as of right we may, to provide for the state of the Church of England, and the tranquillity and quiet of the prelates of the said clergy to the honour of God, and the amendment of the state of the said Church, and of the prelates and clergy, ratifying and approving all and singular the said answers which appear in the said Act, and all and singular things in the said answers contained; we do for us and our heirs grant and command, that the same be inviolably kept for ever: willing and granting for us and our heirs, that the said prelates and clergy and their successors for ever, do exercise

By this statute of 9 E. 2. and the statutes of 15 E. 3. c. 6. 31 E. 3. c. 11. and by other statutes heretofore mentioned, the jurisdiction of the ecclesiastical Courts is allowed and warranted by consent of Parliament in all causes wherein they now have

jurisdiction, so as these laws may be justly called,

ecclesiastical jurisdiction in the premises according to the tenor of the said answer.

the King's ecclesiastical laws of England. *Note in the original edition.*

[NOTE.—This pretended statute of Articuli Cleri was one of the grievances of King Edward the 2d's reign. See Cotton's Records, and Bohun's Law of Tythes, c. 8.] *Note to former edition.*

In the Reign of King Edward the Third.

[* 14 b.] 16 E. 3. Tit. Excom. 4.

*An excommunication by the Archbishop, albeit it be disannulled by the Pope or his legate is to be (*a*) allowed: neither ought the judges to give any allowance of any such sentence of the Pope, or his legate.

(*a*) Co. Lit. 134. a. F.N.B. 64 f. Post 16. a. In the reign of E. 3.

(*b*) Co. Lit. 134. a. 3 Co. 75. b.

It is often resolved that all the (*b*) bishopricks within England were founded by the King's progenitors, and therefore the advowsons of them all belong to the King, and at the first they were donative; and that if an incumbent of any church with cure die, if the patron present not within six months, the bishop of that diocese ought to collate, to the end the cure may not be destitute of a pastor: if he be negligent by the space of six months, the metropolitan of that diocese shall confer one to that church: and if he also leave the church destitute by the space of six months, then the common law giveth to the King, as to the supreme within his own kingdom, and not to the Bishop of Rome, power to provide a competent pastor for that church.

17 E. 3. 23.

The King may not only exempt any ecclesiastical person from the jurisdiction of the ordinary, but may

grant unto him episcopal jurisdiction. As thus it appeareth there the *King hath done of ancient time to the Archdeacon of (c) Richmond. [* 15 a.]

(c) Co. Lit. 134. a. 20 E. 3. Excom. 9.

All (d) religious or ecclesiastical houses, whereof the King was founder, are by the King exempt from ordinary jurisdiction, and only visitable and corrigible by the King's Ecclesiastical Commission.

(d) Dav. 46. b. 16 E. 3. 11. Tit. Bre. 660. 21 E. 3. 60. 6 H. 7. 14. F.N.B.

The Abbot of Bury in Suffolk was exempted from episcopal jurisdiction by the King's charter. 20 E. 3. Tit. Excom. 6.

The King presented to a benefice, and his presentee was disturbed by one that had obtained bulls from Rome, for which offence he was condemned to perpetual imprisonment, &c. 21 E. 3. 40.

Tithes (a) arising in places out of any parish the King shall have, for that he having the supreme ecclesiastical jurisdiction, is bound to provide a sufficient pastor that shall have the cure of souls of that place which is not within any parish; and by the common laws of England it is (b) evident, that no man, unless he be ecclesiastical, or have ecclesiastical jurisdiction, can have inheritance of tithes. Quære de hoc?

Tithes arising in extra-parochial places belong to the King. 22 E. 3. lib. Ass. pl. 75.

(a) Seld. decimis, 365. Acc. 8 Price 39. Acc. Roll. Ab. Dismes. O. Acc. Com. Dig. Dismes. C. 3. Acc. 2 Inst. 647.

(b) Co. Lit. 139 a. 2 Co. 44. a. Cr. El. 512.

The King shall present to his free chapels (in default of the dean) by lapse, in respect of his supreme ecclesiastical jurisdiction. And Fitzherbert saith, that the King in that case doth * present by lapse as (c) ordinary. 27 E. 3. f. 84. F.N.B. f. 34. [* 15 b.]

(c) Plowd. 498. b.

An excommunication under the Pope's bull is of no force to disable any man within England: and the Judges said, that he that pleadeth such bulls, 30 E. 3. lib. Ass. pl. 19. 12 H. 4. 16. 14 H. 4. 14. 8 H. 6. fol. 3.

35 H. 6. 42. 28 H. 6. 1. 7 E. 4. 14. 12 E. 4. 16. F.N.B.f. 64 F. Vid. 9 E.4.f.3. Hereafter f. 11. It ought to be determined in the ecclesiastical Courts in England. Post 23 b. 26a.

though they concern the excommunication of a subject, were in a hard case, if the King would extend his justice against him. If excommunication being the extreme and final end of any suit in the Court at Rome, be not to be allowed within England; it consequently followeth, that by the ancient common laws of England, no suit for any cause though it be spiritual, rising within this realm, ought to be determined in the Court of Rome; quia frustra expectatur eventus cujus effectus nullus sequitur: and that the Bishops of England are the immediate officers and ministers to the King's Courts.

Vide *ante* 11 b.

31 E. 3. Tit. Excom. 6.

In an attachment upon a prohibition, the defendant pleaded the Pope's bull of excommunication of the plaintiff. The Judges demanded of the defendant if he had not the certificate of some bishop within the realm, testifying the excommunication; to whom the counsel of the defendant answered, that he had not, neither was it as he supposed necessary: for that the bulls of the Pope under lead† were notorious

[* 16 a.]

* enough: but it was adjudged that they were not sufficient, for that the Court ought not to have regard

(*a*) Ante 14 b. Co.Lit. 134.a. F.N.B. 64. f.

to any excommunication (*a*) out of the realm. And therefore by the rule of the Court, the plaintiff was not thereby disabled.

(*b*) 2 Roll. Rep. 451. Dav. 4. a. 33 E. 3. Tit. Aid Roy 103. 38 Ass. pl. 20.

Reges (*b*) sacro oleo uncti, sunt spiritualis jurisdictionis capaces.

Where a prior is the King's debtor, and ought to have tithes of another spiritual person, he may choose either to sue for subtraction of his tithes in the Eccle-

† Sub sigillo plumbeo. See note at end of the Case, p. 67.

siastical (*c*) Court, or in the Exchequer, and yet the persons and matter also were ecclesiastical: for seeing the matter by a mean † concerneth the King, he may sue for them in the Exchequer as well as in the Ecclesiastical Court, and there shall the right of tithes be determined. And Fitzherbert, in his Nat. Bre. fol. 30 holdeth, that before the statute of 18 Ed. 3. cap. 7, right of tithes was determinable in the temporal Courts at the election of the party; and by that statute assigned to be determined in the Ecclesiastical Court, and the temporal Court excluded thereof: and the courts of divers manors of the King, and of other lords in ancient times had the (*a*) probates of last wills and testaments, and it appeareth by 11 * H. 7. fol. 12 that probate of testaments did not appertain to the Ecclesiastical Court, but that of late time they were determinable there: so as of such causes, and in such manner as the Kings of the realm by general consent and allowance have assigned to their Ecclesiastical Courts, they have jurisdiction by force of such allowance.

(*c*) Co. Lit. 149 a. 2 Co. 44 a.

See Bohun of Tithes, ch. 8.

(*a*) Perk. sect. 486. 9 Co. 37. b. etib. notes. 2 Roll. 217. 2 Inst. 231, 488. 11 H. 7. 12 b. Br. Testament 27. 1 Sid. 46. Vaug. 207. Seld. Jurisd. [* 16 b.] de Testamentis 9, 10. 5 Co. 73. b. See the statute of 15 E. 3. c. 6. 31 E. 3. c. 11. 9. Co. 37.

The King did by his charter translate Canons secular into regular and religious persons; which he did by his ecclesiastical jurisdiction, and could not do it unless he had jurisdiction ecclesiastical.

38 Lib. Ass. pl. 22.

The Abbot of Waltham died in the 45th year of Ed. 3, and one Nicholas Morris was elected Abbot, who, for that the abbey was exempt from ordinary jurisdiction, sent to Rome to be confirmed by the

46 E. 3. Tit. Præmun. 6.

† Mediate. See note at end of the Case, p. 67.

Pope: and because the Pope by his constitutions had reserved all such collations to himself, he did recite by his bull that he having no regard to the election of the said Nicholas, gave to him the said abbey, and the spiritualties, and temporalties belonging to the same, of his spiritual grace, and at the request (as he feigned) of the King of England. This bull was read and considered of in Council, that is, before all the [* 17 a.] Judges of England, and it was resolved by them * all, that this Bull was against the laws of England, and that the Abbot for obtaining the same was fallen into the King's mercy, whereupon all his possessions were seised into the King's hand, as more at large by the said case appeareth.

49 E. 3. lib. Ass. pl. 8. Where the Abbot of Westminster had a Prior and convent who were regular and mort (dead) in law, yet the King by his charter did divide that corporation, and made the Prior and convent a distinct and capable body, to sue and be sued by themselves.

Statute de 25 Ed. 3. st. 6. de provisoribus. (*a*) 3 Co. 76. a. W. Jon. 160. At (*a*) a Parliament holden in the 25th year of King Edward the Third: it was enacted, by consent of the whole Parliament, that as well they that obtained provisions from Rome, as they that put them in execution, should be out of the King's protection: and that a man might do with them, as with the enemies of the King; and he that offended against such provisors in body, goods, or other possessions, should be excused against all people, and should never be impeached or grieved for the same. By which law every man might lawfully kill such an offender as a

common enemy against the King and his country, so heinous were such offences then holden.†

Afterwards, in the same 25th year of King Edward the Third, it was in open Parliament, * by the grievous complaints of all the Commons of this realm, showed that the grievances and mischiefs aforesaid did daily abound to the great damage and destruction of all this realm, more than ever were before, viz., that of late the Bishop of Rome, by procurement of clerks and otherwise, had reserved, and did daily reserve to his collation, generally and specially, as well archbishopricks, abbeys, and priories, as all other dignities, and other benefices of England which were of the advowry of people of holy Church, and gave the same as well to aliens as to citizens, and taketh of all such benefices the first-fruits, and many other profits, and a great part of the treasure of the realm was carried away and dispended out of the realm by the purchasers of such graces; and also by such privy reservations many clerks advanced in the realm by their true patrons, which had peaceably holden their advancements by long time, were suddenly put out. Whereupon the

Statute de 25 Ed. 3. st. 6. Note.

[* 17 b.]

" † The 5 Eliz. c. 1, sect. 21, was passed to obviate this, and provided that it should not be lawful to slay a person attainted upon any *Præmunire*. The 9 and 10 Vict. c. 59, by totally repealing 5 Eliz. c. 1, may have had an effect which its framers could never have contemplated, viz., that of placing a person convicted upon a *Præmunire* so completely out of the protection of the law, as that any one might kill him with impunity."—Note to page 233 of *Mr. Stamp's Index to the Statute Law of England, to the Close of the Session*, 10 and 11 Victoria, 1847. Mr. Stamp adds,—" The strangeness of the incident has led to its selection out of the many instances which might be adduced of the want of care and consideration in the framing of Acts of Parliament."

said Commons did pray their said Sovereign Lord
Note. the King, that sithence the right of the Crown of England, and the law of the said realm was such, that upon the mischiefs and damages which happened to his realm, he ought, and was bound of the accord of the said
[* 18 a.] people, therefore to provide * remedy and law for the avoiding the mischiefs and damage which thereof came, that it might please him thereupon to ordain remedy. The said King Edward 3, seeing the mischiefs and damages before named, and having regard to the statute made in the time of his grandfather, King
Ante 13. b. Edward 1, and to the causes contained in the same, which statute holdeth always his force, and was
Nota. never defeated nor annulled in any point: and forasmuch as he was bound by his oath to see the same to be kept as a law of this realm, though that by sufferance and negligence it had been sithence attempted to the contrary, also having regard to the grievous complaints made to him by his people in divers his Parliaments holden heretofore, willing to ordain remedy for the great damage and mischiefs which had happened, and daily did happen to the Church of England by the said cause, by the assent of all the great men, and the commonalty of the said realm, to the honour of God, and profit of the said Church of England and of all his realm, did order and
Vide 10 E. 3. fol. 1 and 2. establish, that the free election of Archbishops, Bishops, and all other dignities and benefices electory in England, should hold from thenceforth in the manner as they were granted by the King's progeni-

tors, * and founded by the ancestors of other lords: and that all Prelates, and other people of the holy Church, which had advowsons of any benefices of the King's gift or of any of his progenitors, or of other lords and donors, to do Divine service, and other charges thereof ordained, should have their collations and presentments freely, in the manner as they were infeoffed by their donors. And in case that reservation, collation, or provision be made by the Court of Rome, of any Archbishoprick, Bishoprick, dignity, or other benefice in disturbance of the election, collations, or presentations aforenamed: that at the time of the avoidance, that such reservations, collations, and provisions ought to take effect, the said King Edward 3 and his heirs should have and enjoy for the same time collations to the Archbishopricks and other dignities elective, which be of his avowry, such as his progenitors had before that free election was granted, sithence that the elections were first granted by the King's progenitors, upon a certain form and condition, as to demand licence of the King to choose, and after the election to have his Royal assent, and not in other manner: which conditions not kept, the King ought by reason to resort to his first nature * (institution), as by the said Act more at large appeareth. [* 18 b.] Note. [* 19 a.]

In the 27th year of the reign of the same King, it was grievously complained to the King, in a Parliament then holden by the great men and Commons of the realm, how that divers of the people were and had been drawn out of the realm to answer to things whereof the conusance pertained to the King's Statutum de 27 Ed. 3. st. 1. c. 1. Stat. of Præmunire.

Court; and also that the judgments given in the same Court were impeached in other Courts, in prejudice and disherison of the King and his crown, and of all the people of his said realm, and in the undoing and destruction of the Common Law of the same realm at all times used: whereof, upon good deliberation had with the great men and others of his said Council, it was assented and accorded by the King and the great men and Commons aforesaid, that all the people of the King's allegiance, of what condition that they be, which should draw any out of the realm, in plea whereof the conusance pertained to the King's Court, or of things whereof judgments were given in the King's Court, or which did sue in any other Court, to defeat or impeach the judgment given in the King's Court, should incur the danger of Præmunire, as by the said Act appeareth.

[* 19 b.] 38 Ed. 3. st. 2. *To nourish love, peace, and concord between holy Church and the realm, and to appease and cause to cease the great hurt, perils, and insupportable losses and grievances that had been done and happened in times past, and that should happen hereafter, if the thing from henceforth be suffered to pass, because of personal citations and other matters that be passed before this time, and commonly did pass from day to day out of the Court of Rome, by feigned and false suggestions and propositions, against all manner of persons of the realm, upon causes whose cognisance and final discussing pertained unto the King and his Royal Court: and also of impetrations and provisions

of benefices and offices of Holy Church, pertaining to the gift, presentation, donation, and disposition of the King, and that other lay patrons of this realm as of churches, chapels, and other benefices appropriated to cathedral churches, abbeys, priories, chauntries, hospitals, and other poorhouses, and of other dignities, offices, and benefices occupied in times past and presented by divers and notable persons of the said realm; for which causes, and dispensing whereof the good ancient laws, usages, customs, and franchises of the said realm, had been and were greatly appaired, blemished, and * confounded, the Crown of their [* 20 a.] Sovereign Lord the King minished, and his person falsely defamed, his treasury and riches of the realm carried away, the inhabitants and subjects of the realm impoverished and troubled, the benefices of holy Church wasted and destroyed, Divine services, hospitalities, alms-deeds, and works of charity withdrawn and misapplied, the commons and subjects of the realm in body and goods consumed, &c.

The King at his Parliament holden at Westminster, Stat. de 38 E. 3, st. 2, cap. 1. in the * vtas of St. Hilary, the 38th year of his reign, having regard to the quietness of his people, which he chiefly desired to sustain in tranquillity and peace, to govern according to the laws, usages, and franchises Note. of his land, as he was bound by his oath made at his coronation, following the ways of his progenitors, which for their time made certain good ordinances and provisions against the said grievances and perils;

* *i.e.*, the octave of Hilary Term.—J. L.

which ordinances and provisions, and all the other made in his time, and especially in the 25th and 27th years of his reign, the King, by the assent and express will and concord of the Dukes, Earls, Barons, and the Commons of this realm, and of all other whom these things touched, by good and meet deliberation and advisement, did approve, accept, * and confirm, as by the said Act appeareth.

[* 20 b.]

But those which should execute the said good laws against such capital offenders were cursed, reproved, and defamed, by such as maintained the usurped jurisdiction of the Bishop of Rome, against which an especial Act of Parliament was made by the King and his whole realm, prohibiting thereby such defamations and slanderous reports.

King Richard the Second.

12 R. 2. tit. Jurisdiction 18.

Against an Incumbent of a Church in England, another sueth a provision in the † Church of Rome, and there pursueth until he recovereth the church against the incumbent, and after brought an action of account against him, as receiver of divers sums of money (which in troth were the oblations and offerings which the incumbent had received): and the whole Court was of opinion against the plaintiff, and thereupon he became nonsuit.

[* 21 a.] Statutum de 16 R. 2 cap. 5. Nota.

* It is declared by that Parliament, that the Crown of England hath been so free at all times, that it hath been in subjection to no realm, but immediately

† In curia Romana. See the note at the end of the Case, p. 67.

subject to God, and none other, and that the same ought not, in anything touching the regalty of the same Crown, be submitted to the Bishop of Rome, nor the laws and statutes of this realm by him frustrated or defeated at his will, to the perpetual destruction of the King, his Sovereignty, Crown, and Regalty, and of all his realm. And the Commons in that Parliament affirmed, that the things attempted by the Bishop of Rome be clearly against the King's Crown and his Regalty used and approved in the time of all his progenitors: wherefore they and all the liege commons of the same realm, would stand with the King and his said Crown and his Regalty in the cases aforesaid, and in all other cases attempted against him, his Crown and his Regalty, in all points to live and to die. And moreover they did pray the King, and him required by way of justice, that he would examine all the Lords in the Parliament as well spiritual as temporal, severally, and all the states of the Parliament, how they thought of the cases aforesaid, which were so openly against the King's Crown, and * in derogation of his Regalty, and how they would stand in the same cases with the King, in upholding the rights of the said Crown and Regalty: whereupon the Lords temporal so demanded, did answer every one by himself; that the cases aforesaid were clearly in derogation of the King's Crown and of his Regalty, as it was well known, and had been of long time known; and that they would stand with the same Crown and Regalty, in those cases especially, and in [* 21 b.]

all other cases which should be attempted against the said Crown and Regalty in all points, with all their power. And moreover it was demanded of the Lords spiritual there being, and the procurators of others being absent, their advice and will in all those cases, which Lords, that is to say, the Archbishops, Bishops, and other prelates being in the Parliament severally examined, making protestations that it was not their mind to deny or affirm that the Bishop of Rome might not excommunicate Bishops, nor that he might make translation of prelates after the law of holy Church, answered and said, that if any executions or processes made in the King's Court, as before were made by any, and censures of excommunications be made against any Bishop of England, or any other of
[* 22 a.] the * King's liege people, for that they had made execution of such commandments; and that if any executions of such translations be made of any prelates of the same realm, which prelates were very profitable and necessary to the King and to his said realm; or that his sage men of his Council, and without his assent and against his will be withdrawn and eloyned out of the realm, so that the substance and treasure of the realm might be destroyed, that the same was against the King and his Crown, as it was contained in the petition before named; and likewise the same procurators, every one by himself examined upon the said matters, did answer and say in the name and for their Lords as the said Bishops had said and answered; and that the said Lords spiritual would and ought to stand

with the King in these cases, lawfully in maintaining of his Crown, and in all other cases touching his Crown and his Regalty as they were bound by their allegiance. Whereupon the King by the assent aforesaid, and at the prayer of his said Commons, did ordain and establish; that if any purchase or pursue, or cause to be purchased or pursued, in the Court of Rome or elsewhere, any such translations, processes, and sentences of excommunication, bulls, instruments, or * any other things which touched the King their [* 22 b.] lord, against him, his Crown and his Regalty or his realm, as is aforesaid; and they which bring within the realm, or them receive, or make thereof notification, or any other execution within the same realm or without; that they, their notorious procurators, maintainers, fautors, and counsellors should be put out of the King's protection, and their lands and tenements, goods and chattels forfeit to the King, and they be attached by their bodies if they may be found, and brought before the King and his Council, there to answer to the cases aforesaid; or that process to be Co. Lit. 130. a. made against them by Præmunire facias, as it is F.N.B. 169. f. ordained in other statutes of provisors, and others which do sue in any other Court in derogation of the Regalty of the King, as by the said Act also appeareth.

In the Reign of King Henry the Fourth.

It is resolved that the Pope's Collector, though he 1 H. 4. fol. 9. have the Pope's bulls for that purpose, hath no jurisdiction within this realm, and there the Archbishops

and Bishops, &c. of this realm are called the King's spiritual Judges.

F.N.B. 269. 2 H. 4. c. 15. [* 23 a.]

By the ancient laws ecclesiastical of this realm, no * man could be convicted of heresy, being high treason against the Almighty, but by the Archbishop and all the clergy of that province, and after abjured thereupon, and after that newly convicted and condemned by the clergy of that province in their general council of convocation: but the statute of 2 H. 4. c. 15, doth give the Bishop in his diocese power to condemn an heretic; and that before that statute he could not be committed to the secular power to be burnt until he had once abjured, and was again relapsed to that or some other heresy; whereby it appeareth that the King by consent of Parliament directed the proceedings in the Ecclesiastical Court in case of heresy, and other matter more spiritual.

3 Inst. 40. This had a resemblance to an attainder of treason, wherein there must be first an indictment by one jury, and a conviction by the other. *Note in the original edition*

On the statute was the writ De Hæretico comburendo founded, which is now annulled by stat. 29 Car. 2. c. 9. *Note to former ed.* 11 H. 4. 37.

The Pope cannot alter the laws of England.

The Judges say that the statutes which restrain the Pope's provisions to the benefices of the advowsons of spiritual men, were made, for that the spiritualty durst not in their just cause say against the Pope's provisions: so as those statutes were made, but in affirmance of the common laws.†

† And so are all statutes whichrestrain ecclesiastical jurisdiction. *Notetoformer edition.*

Excommunication made by the Pope is of no force in England, and the same being certified * by the Pope into any Court in England ought not to be allowed, neither is any certificate of any excommuni-

11 H. 4. 69. 76.

[* 23 b.] 14 H. 4. f. 14. Vide 30 E. 3. lib. Ass. pl. 19. before. Vide 13 E. Certificat, 6. Vide 20 H. 6. b. 35 H. 6. 42. 7 Ed. 2. 14. F.N B. 64. F. Ante 15. b. Post 26. b. 27. a.

cation available in law but that which is made by some Bishop of England, for the Bishops are by the common laws the immediate officers and ministers of justice to the King's Courts in causes ecclesiastical. Note, Bishops are temporal officers. *Note to former edition.* 14 H. 4. 14.

If any Bishop do excommunicate any person for a cause that belongeth not unto him, the King may write unto the Bishop, and command him to assoyle and absolve the party.

If any person of religion obtain of the Bishop of Rome to be exempt from obedience regular or ordinary, he is in case of Præmunire, which is an offence as hath been said, contra regem, coronam et dignitatem suas. Statute de 2 H. 4. cap. 3.

The Commons did grievously complain to the King, at the Parliament holden in the sixth year of Hen. 4, of the horrible mischiefs and damnable customs which then were introduct of new in the Court of Rome, that no person, Abbot, or other, should have provision of any archbishoprick or bishoprick which should be void till he had compounded with the Pope's chamber, to pay great and excessive sums of * money, as well for the first fruits of the same archbishoprick or bishoprick, as for the other less services in the same Court; and that the same sums or the greater part thereof be paid beforehand, which sums passed the treble or the double at the least of that that was accustomed of old time to be paid to the said chamber, and otherwise by the occasions of such provisions, whereby a great part of the treasure of this realm had been brought and carried to the said Court, and also should be in time to come, to the great impoverishing of the Statute de 6 H. 4. cap. 1. [* 24 a.]

Archbishops and Bishops within the same realm, and elsewhere within the King's dominions, if convenient remedy were not for the same provided. The King to the honour of God, as well to eschew the damage of this realm as the perils of their souls, which owen to be advanced to any archbishopricks and bishopricks within the realm of England, and elsewhere within the King's dominions out of the same realm, by the advice and assent of the great men of his realm in the Parliament did ordain and establish, that they and every of them [who] should pay to the said chamber or otherwise, for such fruits and services greater sums of money than had been accustomed to be paid in old time past, they and every * of them should incur the forfeiture of as much as they may forfeit towards the King, as by the said Act appeareth.

[* 24 b.]

Statute de 7 H. 4. cap. 6.

No person, religious or secular, of what estate or condition that he were, by colour of any bulls, containing privileges to be discharged of tithes pertaining to parish churches, prebends, hospitals, vicarages, purchased before the first year of King Richard the Second, or after, not executed, should put in execution any such bulls so purchased, or any such bulls to be purchased in time to come, upon the pain of a Præmunire, as by the said Act appeareth.

In the Reign of King Henry V.

Statute de 3 H. 5. cap. 4.

In an Act of Parliament made in the third year of King Henry 5, it is declared, that whereas in the time of King Henry 4, father to the said King, the 7th year of his reign, to eschew many discords and

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debates, and divers other mischiefs which were likely to arise and happen because of many provisions then made or to be made by the Pope, and also of license thereupon granted by the said late King, amongst other things it was ordained and established, *that [* 25 a.]
no such license or pardon so granted before the same ordinance, or afterwards to be granted, should be available to any benefice full of any incumbent, at the day of the date of such license or pardon granted: Note.
nevertheless divers persons, having provisions of the Pope of divers benefices in England and elsewhere, and licenses royal to execute the same provisions, have by colour of the same provisions, licenses, and acceptations of the said benefices, subtily excluded divers persons of their benefices, in which they had been incumbents by a long season of the collation of the very patrons spiritual, to them duly made to their intent, to the utter destruction and enervation of the estates of the same incumbents. The King willing to void such mischiefs, hath ordained and established, that all the incumbents of every benefice of holy Church, of the patronage, collation, or presentation of spiritual patrons, might quietly and peaceably enjoy their said benefices without being inquieted, molested, or any ways grieved by any colour of such provisions, licenses, and acceptations; and that all the licenses and pardons upon and by such provisions made in any manner, should be void and of no valour; and if any feel himself * grieved, [* 25 b.]
molested, or inquieted, in any wise from thenceforth by any by colour of such provisions, licenses, pardons,

or acceptations, that the same molestors, grievors or inquietors and every of them, have and incur the pains and punishments contained in the statutes of provisors before that time made, as by the said Act appeareth.

Statute de 2 H. 5. st. 1. cap. 7.

A statute was made for the extirpation of heresy, and lollardy (*a*) whereby full power and authority was given to the justices of peace and justices of assise to enquire of those that hold errors, heresies, or lollardy, and of their maintainers, &c. And that the sheriff or other officers, &c. may arrest and apprehend them.*

(*a*) Lollardy a Lolio. For as cockle is the destruction of the corn, so is heresy the destruction of true religion.† *Note in the original edition.*

En diabolicæ fructus religionis.

† Perperam sane, sed potius a Gaultero Lolhard Germanico quodam, qui floruit circa annum Dom. 1315. Spelm. Gloss. Tit. Lollardia. 3 Inst. 43. Linwood, 300. 3 Inst. 43. *Note to former edition.*

Stat. de 2 H. 5. st. 1. cap. 1.

The King by consent of Parliament giveth power to ordinaries to enquire of the foundation, creation, and governance of hospitals, other than such as be of the King's foundation, and thereupon to make correction and reformation according to the ecclesiastical law.

In the Reign of King Henry VI.

[*26 a.] 8 H. 6. f. 3. (*a*) Ante 15. b. 23. a. b. Post 27. a.

* Excommunication (*a*) made and certified by the Pope is of no force to disable any man within England: and this is by the ancient common laws before any statute was made concerning foreign jurisdiction.

* *i.e.* ("ad comburendos.") This follows in the Latin. See note at end of the Case, p. 67.

The (*b*) King only may grant or license to found a spiritual incorporation. 9 H. 6. f. 16. b. (*b*) 4 Co. 107. b. Dy. 81. pl. 64.

In the reign of King Henry the Sixth, the Pope writ letters in derogation of the King and his Regalty, and the Churchmen durst not speak against them; but Humfrey Duke of Gloucester for their safe keeping put them into the fire. 1 H. 7. 10.

In the Reign of King Edward IV.

In the reign of King Edward the Fourth, the Pope granted to the Prior of St. John's, to have sanctuary within his priory; and this was pleaded and claimed by the Prior; but it was resolved by the Judges, that the Pope had no power to grant any sanctuary within this realm, and, therefore, by judgment of the law the same was disallowed. 1 H. 7. 20.

There it appeareth that the opinion of the King's Bench had been oftentimes, that if one spiritual person sue another spiritual man in the Court of Rome for a matter spiritual, where he might have remedy before his ordinary, that is the Bishop of that diocese within the realm, Quia trahit ipsum in placitum extra regnum, incurreth the danger of a Præmunire: an heinous offence, being contra ligeantiæ suæ debitum, in contemptum domini Regis, et contra coronam et dignitatem suas; by which it appeareth how grievous an offence it was against the King, his crown and dignity, if any subject, although both the persons and cause were spiritual, did seek for justice out of the realm, as though either there wanted jurisdiction, or justice [26 b.] 9 E. 4. 3. Vide F. N. B. f. 44 H. agreeth herewith. Nota.

was not executed in the Ecclesiastical Courts within the same; which (as it hath been said) was an high offence contra Regem, coronam et dignitatem suas.

9 E. 4. 28 Bohun's Exam. Leg. Angliæ p. 15. 2 Inst. 114. Hale's Pl. Cor. 240.

In the King's Courts of Record, where felonies are determined, the Bishop or his deputy ought to give his attendance, to the end that if any that is indicted and arraigned for felony, do demand the benefit of his clergy, that the ordinary may inform the Court of his sufficiency or insufficiency, that is, whether he can read as a clerk or not, whereof notwithstanding* the ordinary is not to judge, but is a (*a*) minister to the King's Court; and the Judges of that Court are to judge of the sufficiency or insufficiency of the party, whatsoever the ordinary do inform them, and upon due examination of the party, may give judgment against the ordinary's information, for the King's Judges are the proper and only Judges of the cause.

[*27 a.]

(*a*) Stanf Cor. 133. a. 7 Ed. 4. 29. accord.

12. E. 4. f. 16. The Pope's excommunication is of no force within the realm of England.

In the reign of King Edward the Fourth, a Legate from the Pope came to Calais, to have come into England, but the King and his Council would not suffer him to come within England until he had taken an oath, that he should attempt nothing against the King or his crown: and so the like was done in his reign to another of the Pope's Legates: and this is so reported in 1 Hen. 7, fol. 10.

In the Reign of King Richard III.

2 R. 3. f. 22. It is resolved by the Judges, that a judgment or

excommunication *in the Court of Rome should not bind or prejudice any man within England at the common law. [* 27 b.]

In the Reign of King Henry VII.

In the reign of King Henry VII., the Pope had excommunicated all such persons whatsoever as had bought alum of the Florentines; and it was resolved by all the Judges of England that the Pope's excommunication ought not to be obeyed, or to be put in execution within the realm of England. 1 H. 7 f. 10.

In a Parliament holden in the first year of King Henry VII., for the more sure and like reformation of priests, clerks, and religious men, culpable, or by their demerits openly noised of incontinent living in their bodies, contrary to their order; it was enacted, ordained, and established, by the advice and assent of the Lords Spiritual and Temporal, and the Commons in the said Parliament assembled, and by authority of the same, that it be lawful to all Archbishops and Bishops, and other ordinaries, having Episcopal jurisdiction, to punish and chastise priests, clerks, and religious men, being within the bounds of their jurisdiction, as shall be convicted afore them by examination, and *lawful proof requisite by the law of the Church, of adultery, fornication, incest, or any other fleshly incontinency, by committing them to ward and prison, there to abide for such time as shall be thought to their discretions convenient for the quality and quantity of their trespass, and that none of the said Archbishops, Statut. de 1 H. 7. c. 4. [* 28 a.]

Bishops, or ordinaries aforesaid, be thereof chargeable, of, to, or upon any action of false or wrongful imprisonment, but that they be utterly thereof discharged in any of the cases aforesaid, by virtue of his act.

10 H. 7. 18. (a) 1 Roll. 657. 2 Co. 44. a. 13 Co. 17. Hob. 17. Davis 4. a. 11 H. 7. 12. (b) Hob. 147. (c) Hob. 147.

Rex (a) est persona mixta, because he hath both ecclesiastical and temporal jurisdiction.

By the ecclesiastical laws allowed within this realm, a priest cannot have two (b) benefices, nor a (c) bastard can be a priest. But the King may by his ecclesiastical power and jurisdiction dispense with both of these, because they be mala prohibita, and not mala per se.

In the Reign of King Henry VIII.

Statute of 24 H. 8. c. 12. This statute is declaratory of the ancient laws of England, as manifestly appeareth by that which hath been said. See Br. Abr. tit. Presentment al Esglise pl. 12. The Pope was permitted to do certain things within this realm by usurpation, and not of right, until the reign of H 8. *Note in the original edition.*

By an Act of Parliament made the 24th year of King Henry VIII., that is to say, by the King, twenty-four Bishops, twenty-nine abbots, and priors

[* 28 b.] (for so many were then Lords of Parliament),* by all the Lords Temporal and the Commons in that Parliament assembled, it is declared, that where by divers sundry old authentic histories and chronicles, it was manifestly declared and expressed, that this realm of England is an empire, and so hath been accepted in the world, governed by one supreme head and King,

(a) Ante 8. b. having the dignity and Royal estate of the (a) Imperial Crown of the same, unto whom a body politic compact of all sorts and degrees of people, divided in

terms and by names of spiritualty and temporalty, been bound and ought to bear, next to God, a natural and humble obedience, he being also institute and furnished by the goodness and furtherance of Almighty God, with plenary, whole, and entire power, pre-eminence, authority, prerogative, and jurisdiction, to render and yield justice and final determination to all manner of folks, resiants, or subjects within this his realm, in all causes, matters, debates, and contentions, happening to occur, insurge, or begin within the limits thereof, without restraint or provocation to any foreign princes or potentates of the world: the body spiritual whereof having power when any cause of the law Divine happened to come in question, or of spiritual learning; *that it was declared, interpreted, and showed by [* 29 a.] that part of the said body politic, called the spiritualty, then being usually called the English Church, which always had been reputed and also found of that sort, that both for knowledge, integrity, and sufficiency of number, it had been always thought, and was also at that hour sufficient and meet of itself without the intermeddling of any exterior person or persons, to declare and determine all such doubts, and to administer all such offices and duties as to the *rooms spiritual did appertain: for the due administration whereof, and to keep them from corruption, and sinister affection, the King's most noble progenitors, and the ancestors of the nobles of this realm, did more than sufficiently endow the said Church both

* Ad spiritualem ordinem. See note at end of the Case, p. 67.

with honour and possessions: and the laws temporal for trial of property of lands and goods, and for the conservation of the people of this realm in unity and peace, without rapine or spoil, was, and then was administered, adjudged, and executed by sundry Judges and ministers of the other part of the said body politic called the Temporalty, and both their authorities and jurisdictions did conjoin together in the due administration of justice, the one to help the other:
[* 29 b.] and *whereas the King, his most noble progenitors, and the Nobility and Commons of the said realm, at divers and sundry Parliaments, as well in the time of King Edw. 1, Edw. 3, Rich. 2, H. 4, and other noble kings of this realm, made sundry ordinances, laws, statutes, and provisions, for the entire and sure conservation of the prerogatives, liberties, and pre-eminences of the said Imperial crown of this realm, and of the jurisdiction spiritual and temporal of the same, to keep it from the annoyance as well of the See of Rome as from the authority of other foreign potentates, attempting the diminution or violation thereof, as often and from time to time as any such annoyance or attempt might be known or espied: and notwithstanding the said good statutes and ordinances made in the time of the King's most noble progenitors, in preservation of the authority and prerogative of the said Imperial Crown as aforesaid: yet nevertheless sithence the making of the said good statutes and ordinances divers and sundry inconveniences and dangers not provided for plainly by the said former acts, statutes, and ordinances, have risen

and sprung by reason of appeals sued out of this realm *to the See of Rome, in causes testamentary, [* 30 a.] causes of matrimony and divorces, right of tithes, oblations, and obventions, not only to the great inquietation, vexation, trouble, costs, and charges of the King's highness and many of his subjects and resiants in this his realm, but also to the great delay and let to the true and speedy determination of the said causes; forasmuch as the parties appealing to the said Court of Rome, most commonly did the same for delay of justice: and forasmuch as the great distance of way was so far out of this realm, so that the necessary proofs nor the true knowledge of the cause could neither be so well known, or the witnesses there so well examined, as within this realm; so that the parties grieved by means of the said appeals, were most times without remedy. In consideration thereof, the King, his Nobles and Commons, considering the great enormities, damages, long delays, and hurts, that as well to his Highness as to his noble subjects, commons, and resiants of this his realm, in the said causes testamentary, causes of matrimony and divorces, tithes, oblations, and obventions, did daily ensue, did therefore, by his Royal Assent and by the assent of the Lords Spiritual and Temporal and the Commons *in that Parliament assembled, and by [* 30 b.] authority of the same, enact, establish, and ordain, that all causes testamentary, causes of matrimony, and divorces, rights of tithes, oblations, and obven-

tions, the knowledge whereof by the goodness of princes of this realm, and by the laws and customs of the same, appertained to the spiritual jurisdiction of this realm, then already commenced, moved, depending, being, happening, or hereafter coming in contention, debate, or question within this realm, or within any of the King's dominions, or marches of the same, or elsewhere, whether they concern the King, his heirs, or successors, or any other subjects or resiants within this realm, of what degree soever they be, should be from thenceforth heard, examined, discussed, clearly, finally, and definitively adjudged and determined within the King's jurisdiction and authority, and not elsewhere, in such Courts spiritual and temporal of the same, as the natures, conditions, and qualities of the causes and matters aforesaid in contention, or thereafter happening in contention should require, without having any respect to any custom, use, or sufferance, in hinderance, let, or prejudice of the same, or to any other thing used or suffered to the contrary thereof, *by any other manner, person, or persons, in any manner or wise: any foreign inhibitions, appeals, sentences, summons, citations, suspensions, interdictions, excommunications, restraints, judgements, or any other process or impediment, of what natures, names, qualities, or conditions soever they be, from the See of Rome, or any other foreign Courts or potentates of the world, or from and out of this realm, or any other the King's dominions or

This also is declaratory of the ancient law, as it appeareth both by 9 E. 4. 3. F.N.B.44.and many other cases and stat. abovesaid. *Note in the original edition.*

[* 31 a.]

marches of the same, to the See of Rome, or to any other foreign Courts or potentates, to the let or impediment thereof, in any wise notwithstanding, as by the said Act appeareth.

By an Act of Parliament in 25 H. 8, it is declared by the King, Lords Spiritual and Temporal, and the Commons in that Parliament assembled; that neither the King, his heirs, nor successors Kings of this realm, nor any of his subjects of this realm, nor of any other his dominions, should from thenceforth sue to the said Bishop of Rome, called the Pope, or to the See of Rome, or to any person or persons having or pretending any authority by the same, for licenses, dispensations, impositions, faculties, grants, rescripts, delegacies, or any other instruments, or writings, of what kind, name, nature, or quality soever *they be of, for any cause or matter, for the which any license, dispensation, composition, faculty, grant, rescript, delegacy, instrument, or other writing theretofore had been used and accustomed to be had and obtained at the See of Rome, or by authority thereof, or of any prelate of this realm: nor of any manner of other licenses, dispensations, compositions, faculties, grants, rescripts, delegacies, or any other instruments or writings, that in causes of necessity might lawfully be granted without offending of the holy Scripture and laws of God; but that from thenceforth every such license, dispensation, composition, faculty, grant, rescript, delegacy, instrument, and other writing aforenamed and mentioned necessary for the King, his heirs, and successors, and his and

Stat. 25 H. 8. c. 21. This was also declaratory of the ancient law, as by that which hath been said appeareth. *Note in the original edition.*

[* 31 b.]

their people and subjects, upon due examination of the causes and qualities of the persons procuring such dispensations, licenses, compositions, faculties, grants, rescripts, delegacies, instruments, or other writings, should be granted, had, and obtained from time to time within this his realm, and other his dominions, and not elsewhere, in manner and form following, and not otherwise, that is to say: the Archbishop of
[* 32 a.] Canterbury, for the time being, and *his successors, should have power and authority from time to time by their discretions, to give, grant, and dispose by an instrument under the seal of the said Archbishop, unto the King and unto his heirs and successors kings of this realm, as well all manner such licenses, dispensations, compositions, faculties, grants, rescripts, delegacies, instruments, and all other writings, for causes not being contrary or repugnant to the holy Scriptures and laws of God, as theretofore had been used, and accustomed to be had and obtained by the King, or any his most noble progenitors, or any of his or their subjects at the See of Rome, or any person or persons by authority of the same; and all other licenses, dispensations, faculties, compositions, grants, rescripts, delegacies, instruments, and other writings, in, for, and upon all such causes and matters as should be convenient and necessary to be had for the honour and surety of the King, his heirs, and successors, and the wealth and profit of this his realm: so that the said Archbishop, or any of his successors,
Note. in no manner or wise should grant any dispensation,

license, rescript, or any other writing before rehearsed, for any cause or matter repugnant to the law of Almighty God, as by the said Act also appeareth.

*If it be demanded what canons, constitutions, ordinances, and synodals provincial, are still in force within this realm; I answer that it is resolved and enacted by authority of Parliament, that such as [have been allowed by general consent and custom within the realm, and] are not contrariant or repugnant to the laws, statutes, and customs of the realm, nor to the damage or hurt of the King's prerogative royal, are still in force within this realm, as the King's ecclesiastical laws of the same (*a*). Now, as consent and custom hath allowed these canons, so no doubt by general consent of the whole realm, any of the same may be corrected, enlarged, explained, or abrogated. For example, there is a decree that all clerks that have received any manner of orders, greater or smaller, should be exempt, pro causis criminalibus before the temporal judges. This decree never had any force within England: first, for that it was never approved and allowed of by general consent within the realm: secondly, it was against the laws of the realm, as it doth appear by infinite precedents: thirdly, it was against the prerogative and sovereignty of the King that any subject within this realm * should not be subject to the laws of this realm.

[* 32 b.] The words between the brackets are not in stat. 25 H. 8. cap. 19. § 7. but words *tantamount* are contained in the expired Act 25 H. 8. cap. 16.

(*a*) Vid. Co. Lit. 344. a. *Middleton* v. *Crofts* 2 Atk. 669. 2 Wils. 185. Vol. vi. p. 413.

This appeareth by the resolution of all the Judges in 7 H. 8. Lib. Keilw. f. 185. And this was long before any Act of Parliament was made against foreign jurisdiction by King H. 8. *Note in the original edition.* Pars. Answ. 353, &c.

[* 33 a.]

In the Reign of Queen Elizabeth.

The statute of 1 Queen Elizabeth, c. 1.

By the Act of Parliament (whereupon the principal case then in question partly dependeth) made in the first year of the reign of the late Queen Elizabeth, it is declared, that where in the time of the reign of King Henry the Eighth, divers good laws and statutes were made and established, as well for the utter extinguishment and putting away of all usurped foreign powers and authorities of this realm, and other her dominions and countries, as also for the restoring and uniting to the imperial Crown of this realm, the ancient jurisdiction, authorities, superiorities, and pre-eminence, to the same of right belonging and appertaining; by reason whereof her most humble subjects, from the 25th year of the said King Henry the Eighth, were continually kept in good order, and were disburdened of divers great and intolerable charges and vexations, before that time unlawfully taken, and exacted by such foreign power and authority, as before that was usurped; and to the intent, that all usurped and foreign power and authority, spiritual and temporal, might * for ever be clearly extinguished, and never be used or obeyed within this realm, or any other her dominions or countries; it was by the authority of that Parliament enacted, that no foreign prince, person, prelate, state, or potentate, spiritual or temporal, should at any time after the last day of that session of Parliament, use, enjoy, or exercise any manner of power,

s. 16.

[* 33 b.]

jurisdiction, superiority, authority, pre-eminence, or privilege, spiritual or ecclesiastical, within this realm, or within any other the Queen's dominions or countries, that then were, or hereafter should be; but from thenceforth the same should be clearly abolished out of this realm, and all other her dominions for ever; any statute, ordinance, custom, constitution, or any other matter or cause whatsoever to the contrary in any wise notwithstanding. And s. 17.
it was then also established and enacted by the authority of that Parliament, that such jurisdictions, privileges, superiorities, and pre-eminences, spiritual or ecclesiastical, as by any spiritual or ecclesiastical power or authority had heretofore been, or might lawfully be exercised or used for the visitation of the ecclesiastical state and persons, and for reformation, order, and correction of the same, and of all * manner [* 34 a.]
of errors, heresies, schisms, abuses, offences, contempts, and enormities, should for ever by authority of that Parliament, be united and annexed to the imperial Crown of this realm. And that the Queen, s. 18.
her heirs and successors, Kings or Queens of this realm, should have full power and authority by virtue of that Act, by letters patent under the Great Seal of England, to assign, name, and authorize, when and as often as the Queen, her heirs or successors should think meet and convenient, and for such and so long time as should please the Queen, her heirs or successors, such person or persons being natural-born subjects to the Queen, her heirs or successors,

Vide *ante* 1 b. as the said Queen her heirs or successors should think meet, to exercise, use, occupy, and execute under the said Queen her heirs and successors, all manner of jurisdictions, privileges, and pre-eminences, in any wise touching or concerning any spiritual or ecclesiastical jurisdiction within these realms of England and Ireland, or any other her dominions or countries, and to visit, reform, redress, order, correct, and amend, all such errors, heresies, schisms, abuses, offences, contempts, and enormities whatsoever, [* 34 b.] which by any spiritual or * ecclesiastical power, authority, or jurisdiction, could or might lawfully be reformed, ordered, redressed, corrected, restrained, or amended, to the pleasure of Almighty God, the increase of virtue, and the conservation of the peace, and the unity of this realm: and that such person or persons so to be named, assigned, authorized, and appointed by the said Queen, her heirs or successors, after the said letters patent, to him or them made and delivered as is aforesaid, should have full power and authority by virtue of that Act, and of the said letters patent under the said Queen, her heirs or successors, to exercise, use, and execute all the premises according to the tenor and effect of the said letters patent, any matter or cause to the contrary in any wise notwithstanding, as by the said Act also appeareth.

12 Eliz. Reg. Dyer. It was adjudged in the Court of Common Pleas,* by Sir James Dyer, Weston, and the whole Court, that a dean, or any other ecclesiastical person may

* Walrond *v.* Pollard (Dr. Goodman's case), 3 Dy. 293 b.—J. L.

resign to the King, (as (*a*) divers did to King Edw. 6), for that he had the authority of the supreme ordinary.

(*a*) Bulst. 4.

From the 1st until the 11th year of the late Queen Eliz. reign, no person of what persuasion of Christian religion soever, at any time refused to come to the public Divine service, celebrated * in the Church of England, being evidently grounded upon the sacred and infallible word of Almighty God, and established by public authority within this realm; but after the bull of Pius Quintus was published against Her Majesty in the 11th year of her reign, containing (amongst other things too long to be repeated for this purpose) in these words: Pius, Bishop, servant of God's servants, &c. She (Queen Eliz.) hath clean put away the sacrifice of the mass, prayers, fastings, choice or difference of meats, and single life: she possessing the kingdom, and by usurping the place of the supreme head of the Church in all England, and the chief authority and jurisdiction of the same, hath again brought the said realm into miserable destruction. Unto her all such as are the worst of the people resort, and are by her received into safe protection, &c. We make it known, that the said Elizabeth, and as many as stand on her side in the matter above named, have run into the danger of our curse: we make it also known, that we have deprived her from that right she pretended to have in the kingdom aforesaid, and also from all and every her authority, dignity, and privilege. We charge and

[* 35 a.] See the trial of Campion the Jesuit and other persons for procuring this bull, &c.

Psalm cix. 28. Though they curse, yet bless thou (O Lord), and let them be confounded that rise up against me, but let thy servant rejoice. Which was the prayer Her Majesty made when this bull was published against her. *Note in the original edition.*

forbid all and every the nobles and subjects, and
[* 35 b.] people, and others aforesaid, that they be *not so hardy as to obey her or her admonitions, commandments, or laws, upon pain of the like accurse upon them. We pronounce that all, whosoever by any occasion have taken their oath unto her, are for ever discharged of such their oath, and also from all fealty and service, due to her by reason of her government, &c. As by the said Bull more at large appeareth. After this Bull, all they that depended on the Pope obeyed the Bull, disobeyed their gracious and natural sovereign, and upon this occasion refused to come to the Church. The publishing of this Bull by a subject against his sovereign (as appeareth by that which hath
3 Inst. 101. been oftentimes said) was treason in the highest degree, by the ancient common laws of England, for if it were treason to publish a Bull of excommunication within this realm against a subject thereof, as it was adjudged in the reign of King Edward the First, *à fortiori* it is treason in the highest degree to publish such a Bull against the sovereign and monarch herself. After this Bull many Bulls of absolution and reconciliation to the Church of Rome were published and dispersed amongst her Majesty's subjects, to withdraw them from their natural loyalty and allegiance to their sovereign; whereupon no
[* 36 a.] small inconveniences (as *hereafter appeareth) followed: and therefore at a Parliament holden in the 13th year of her reign, it was declared by the whole body of the realm: "that divers seditious and very

ill-disposed people, minding very seditiously and unnaturally, not only to bring this realm, and the imperial crown thereof (being in very deed of itself most free) again into the thraldom and subjection of the foreign usurped and unlawful jurisdiction, preeminence and authority claimed by the said See of Rome, but also to estrange and alienate the minds and hearts of sundry the Queen's subjects, from their dutiful obedience, and to raise and stir sedition and rebellion within this realm, did then lately procure and obtain to themselves, from the said Bishop of Rome, and his said See, divers Bulls and writings, the effect whereof had been, and then was, to absolve and reconcile all those that would be contented to forsake their due obedience to the Queen, and to yield and subject themselves to the said feigned, unlawful, and usurped authority: and by colour of the said Bulls and writings, the said persons very secretly and most seditiously in such parts of this realm, where the people, for want of good instruction, were most weak, simple, and ignorant, and thereby furthest *from the good understanding of [* 36 b.] their duties towards God and the Queen, did by their lewd and subtil practices and persuasions so far forth work, that sundry simple and ignorant persons had been contented to be reconciled to the said usurped authority of the See of Rome, and to take absolution at the hands of the said naughty and subtil practisers; whereby did grow great disobedience and boldness in many not only to withdraw and absent

Note the fruits of the Bull. 1.

themselves from all Divine service, then most godly
2. set forth and used within this realm; but also have thought themselves discharged of and from all obe-
3. dience, duty, and allegiance to Her Majesty; whereby a most wicked and unnatural rebellion did ensue, and
4. to the further danger of this realm was thereafter very like to be renewed, if the ungodly and wicked attempts in that behalf were not by severity of laws in time restrained and bridled: for remedy and redress whereof, and to prevent the great mischiefs and
The parts of the Act. inconveniences that thereby might ensue;" it was enacted by the Queen, with the assent of the Lords Spiritual and Temporal, and the Commons, in that Parliament assembled, and by the authority of the
1. same; that if any person or persons, after the first
[* 37 a.] day *of July then next coming, should use or put in use in any place within this realm, or in any the Queen's dominions, any such Bull, writing, or instrument, written or printed, of absolution or reconciliation at any time theretofore obtained and gotten, or at any time thereafter to be obtained or gotten from the said Bishop of Rome, or any his successors, or from any other person or persons, authorized or claiming authority, by or from the said Bishop of Rome, his predecessors or successors, or See of Rome:
2. or if any person or persons, after the said first day of July, should take upon him or them by colour of any such Bull, writing, instrument, or authority, to absolve or reconcile any person or persons, or to grant or promise to any person or persons, within

this realm, or any other the Queen's dominions, any such absolution or reconciliation by any speech, preaching, teaching, writing, or any other open deed; or if any other person or persons within this realm, 3.
or any the Queen's dominions, after the said first day of July, should willingly receive and take any such absolution or reconciliation: or else if any 4.
person or persons had obtained or gotten sithence the last day of the Parliament holden in the first year of her reign, or after the said first day of July should obtain *or get from the said Bishop of Rome, [* 37 b.]
or any his successors, or See of Rome, any manner of Bull, writing, or instrument, written or printed, containing any thing, matter, or cause whatsoever; or should publish, or by any ways or means put in use any such Bull, writing, or instrument; that then all and every such act or acts, offence and offences, shall be deemed and adjudged by the authority of the said Act to be high treason, and the offender and offenders therein, their procurers, abettors, and counsellors to the fact and committing of the said offence or offences, should be deemed and adjudged high traitors to the Queen and the realm: and being thereof lawfully indicted and attainted, according to the course of the laws of this realm, should suffer pains of death; and also lose and forfeit all their lands, tenements, hereditaments, goods, and chattels, as in cases of high treason by the laws of this realm ought to be lost and forfeited, as by the said Act appeareth.

And albeit many of her subjects, after the said Bull of Pius Quintus, adhering to the Pope, did renounce their former obedience to the Queen in respect of that bull, yet all this time no law was either made or attempted against them for their recusancy, though it
[* 38 a.] were grounded upon so disloyal a cause. *Now that these speechless bulls were declared by Act of Parliament to be so dangerous; then in place of them Jesuits and Romish Priests were sent over, who in secret corners whispered and infused into the hearts of many of the unlearned subjects of this realm, that the Pope had power to excommunicate and depose Kings and Princes; that he had excommunicated the late Queen, deprived her of her kingdom, and discharged all her subjects of their oath, duties, and allegiance to her; and therefore they ought not to obey her, or any of her commandments or laws, under pain of the Pope's curse. This was high treason by the ancient laws of England; and thereupon Campion, Sherwin, and many other Romish Priests being apprehended, and confessing that they came into England to make a party for the Catholic cause, when need should require, were, in the 21st year of the said late Queen's reign, by the ancient common laws of England, indicted, arraigned, tried, adjudged, and executed, for high treason against their natural allegiance which they owed their liege sovereign. But all this time there was no Act of Parliament made either against recusants, or Jesuits, or Priests, her Majesty still desiring
[* 38 b.] and expecting their * conversion, and that by clemency

and mildness they might be reclaimed to their former obedience and conformity before the said Bull. After Priests and Jesuits were punished by sentence of law, according to their demerits, then great numbers of slanderous and seditious books (libri falsidici) against her Majesty and the state were dispersed and scattered within this realm, tending to the inciting and stirring of the subjects to insurrection and rebellion.

Her Majesty in open Parliament, having with the Lords Spiritual, Temporal, and Commons, mature consideration of so weighty and important causes, in the 23d year of her reign made two several laws: one against the makers and publishers of seditious books, ordaining that offence to be felony: another against recusants, inflicting the penalty of twenty pounds the month for their recusancy: and yet upon their submission according to the Act, to be thereof freely and absolutely discharged: (a mild and merciful law, considering their former conformity, and the cause of their revolt:) but after these Jesuits and Romish Priests coming daily into and swarming within the realm, instilling still this poison into the subjects' hearts, that by reason * of the said Bull of Pius V. her Majesty was excommunicated, deprived of her kingdom, and that her subjects were discharged of all obedience to her, and by all means endeavoured to withdraw them from their duty and allegiance to her Majesty, and to reconcile them to the Church of Rome. In the 27th year of her reign, by authority of Parliament Her Majesty made it treason for any

The statutes anno 23 Reg. Eliz.

23 El. c. 2.

23 El. c. 1. ss. 5, 10.

[* 39 a.]

The statute de anno 27 Eliz. Reginæ, c. 2.

3 Inst. 101.

Jesuit or Romish Priest, being her natural-born subject, and made a Romish Priest or Jesuit sithence the beginning of her reign, to come into any of her dominions, intending thereby to keep them out of the same, to the end that they should not infect any other subjects with such treasonable and damnable persuasions and practices as are aforesaid, which without controversy were high treason by the ancient common laws of England: neither would ever any magnanimous King of England, sithence the first establishment of this monarchy, have suffered any (especially being his own natural-born subjects) to live, that persuaded his subjects that he was no lawful King, and practised with them (within the heart of this realm) to withdraw them from their allegiance, and
[* 39 b.] loyalty to their sovereign, the * same being crimen læsæ majestatis by the ancient laws of this realm.

By this and by all the records of the indictments it appeareth, that these Jesuits and Priests are not condemned and executed for their priesthood and profession, but for their treasonable and damnable persuasions and practices against the crowns and dignities of Monarchs, and absolute Princes, who hold their kingdoms and dominions by lawful succession, and by inherent birthright and descent of inheritance, (according to the fundamental laws of this realm,) immediately of Almighty God, and are not tenants of their kingdoms (as they would have it) at the will and pleasure of any foreign potentate whatsoever.

Now albeit the proceedings and process in the eccle-

siastical courts be in the name of the Bishops, &c., it followeth not, therefore, that either the Court is not the King's, or the law whereby they proceed is not the (*a*) King's law: for taking one example for many, every leet or view of frank-pledge holden by a subject, is kept in the (*b*) lord's name, and yet it is the King's Court, and all the proceedings therein are directed by the King's laws, and many subjects in England have * and hold courts of record, and other courts, and yet all their proceedings be according to the King's laws and customs of the realm.

(*a*) Cawley 142.

(*b*) Cawley 142.

[* 40 a.]

Observe (good reader) seeing that the determination of heresies, schisms, and errors in religion, ordering, examination, admission, institution, and deprivation of men of the Church (which do concern God's true religion and service), of right of matrimony, divorces, and general bastardy (whereupon depend the strength of men's descents and inheritances,) of probate of testaments and letters of administration (without which no debt or duty due to any dead man can be recovered by the common law), mortuaries, pensions, procurations, reparations of churches, simony, incest, adultery, fornication, and incontinency, and some others, doth not belong to the common law, how necessary it was for administration of justice, that his Majesty's progenitors Kings of this realm did by public authority authorize ecclesiastical courts under them to determine those great and important causes ecclesiastical (exempted from the jurisdiction of the common law), by the King's laws ecclesiastical;

Q.

which was done originally for two causes. 1. That justice should be administered under the Kings of this
[* 40 b.] realm, * within their own kingdom, to all their subjects, and in all causes. 2. That the Kings of England should be furnished, upon all occasions either foreign or domestical, with learned professors as well of the ecclesiastical as temporal laws.

Thus hath it appeared as well by the ancient common laws of this realm, by the resolutions and judgments of the Judges and sages of the laws of England, in all succession of ages, as by authority of many Acts of Parliament, ancient, and of later times, that the kingdom of England is an absolute monarchy, and that the King is the only supreme governor, as well over ecclesiastical persons, and in ecclesiastical causes, as temporal, within this realm, to the due observation of which laws both the King and the subject are sworn. I have herein cited the very words and texts of the laws, resolutions, judgments, and Acts of Parliament, all public and in print, without any inference, argument, or amplification; and have particularly quoted the books, years, leaves, chapters, and such like certain references, as every man may at his pleasure see and read the authorities herein cited. This case is reported in the English
[* 41 a.] and Latin tongues (as some other * writers of the law have done) to the end that my dear countrymen may be acquainted with the laws of this realm, their own birthright and inheritance, and with such evidences as of right belong to the same; assuring myself that

no wise or true-hearted Englishman, that hath been persuaded before he was instructed, will refuse to be instructed in the truth (which he may see with his own eyes), lest he should be dissuaded from error, wherewith blindfold he hath been deceived: for miserable is his case, and worthy of pity, that hath been persuaded before he was instructed, and now will refuse to be instructed, because he will not be persuaded.

*** This case was originally reported by Sir Edward Coke, in English and Latin, see p. 66. In some instances, where the English has appeared obscure, the Latin has been given in a foot note.—J. L.

THE CASE OF PRÆMUNIRE;

OR,

THE CONVICTION AND ATTAINDER OF

ROBERT LALOR, PRIEST,

BEING INDICTED UPON THE STATUTE OF 16 RICH. 2. CAP. 5. HILARY, 4 JACOBI I. IN THE QUEEN'S BENCH IN IRELAND.

Reports of Sir John Davies, Knight, Attorney-General for Ireland.
Reprinted from the 8vo. edition of 1762.

Of what quality and credit Robert Lalor was.

THIS Robert Lalor, being a native of this kingdom, received his orders of priesthood above thirty years since, at the hands of one Richard Brady, to whom the Pope had given the title of Bishop of Kilmore, in Ulster; and for the space of twenty years together, his authority and credit was not mean within the province of Leinster. He had also made his name known in the Court of Rome, and held intelligence with the Cardinal who was protector of this nation, by means whereof he obtained the title and jurisdiction of Vicar-General of the see apostolic within the archbishoprick of Dublin, and the bishopricks of Kildare and Ferns. This pretended jurisdiction, extending well-nigh over all the province of Leinster, he exercised boldly and securely many years together, until the proclamation was published, whereby all Jesuits and priests ordained by foreign authority were commanded to depart out of this kingdom by

a certain time prefixed. After which time he began to lurk and to change his name; howbeit at last he was apprehended in Dublin, and committed to prison in the castle there. Upon his first examination, taken by the Lord-Deputy himself, he acknowledged that he was a priest, and ordained by a Popish titulary bishop; that he had accepted the title and office of the Pope's Vicar-General in the three dioceses before named, and had exercised spiritual jurisdiction *in foro conscientiæ;* and in sundry other points he maintained and justified the Pope's authority: only he said, he was of opinion that the Pope had no power to excommunicate or depose his Majesty, because the King is not of the Pope's religion.

His apprehension and first Examination.

The next term after he was indicted upon the statute of 2 Eliz., enacted in this realm against such as should wilfully and advisedly maintain and uphold the jurisdiction of any foreign prince or prelate in any causes ecclesiastical or civil within this realm. By which statute the first offence of that kind is punished with loss of goods, and one year's imprisonment; the second offence incurreth the penalty of the Præmunire; and the third offence is made high treason. Upon this indictment he was arraigned, convicted and condemned, and so rested in prison during the next two terms without any farther question. He then made petition unto the Lord-Deputy to be set at liberty: whereupon his Lordship caused him to be examined by Sir Oliver St. John, Sir James Fullerton, Sir Jeffery Fenton, the Attorney and Solicitor-General.

His first indictment and conviction.

His second Examination.

At first, he made some evasive and indirect answers; but at last voluntarily and freely he made this ensuing acknowledgment or confession, which being set down in writing word for word as he made it, was advisedly read by him, and subscribed with his own hand, and with the hands of those who took his examination; and afterwards he confirmed it by his oath before the Lord-Deputy and Council.

The Confession or Acknowledgment of Robert Lalor, priest, made the 22d of December, 1606.

His confession or acknowledgment.

First, he doth acknowledge that he is not a lawful Vicar-General in the dioceses of Dublin, Kildare and Ferns, and thinketh in his conscience that he cannot lawfully take upon him the said office.

Item,—he doth acknowledge our sovereign Lord, King James that now is, to be his lawful, chief and supreme governor in all causes, as well ecclesiastical as civil, and that he is bound in conscience to obey him in all the said causes; and that neither the Pope, nor any other sovereign, prelate, prince or potentate, hath any power to control the King in any cause ecclesiastical or civil within this kingdom, or any of his Majesty's dominions.

Item,—he doth in his conscience believe, that all bishops ordained and made by the King's authority within any of his dominions are lawful bishops; and that no bishop made by the Pope, or by any authority derived from the Pope, within the King's dominions, hath any power or authority to impugn,

disannul or control any act done by any bishop made by his Majesty's authority as aforesaid.

Item,—he professeth himself willing and ready to obey the King, as a good and obedient subject ought to do, in all his lawful commandments, either concerning his function of priesthood, or any other duty belonging to a good subject.

After this confession made, the State here, had no purpose to proceed against him severely, either for his contempt of the proclamation, or offence against the law: so as he had more liberty than before, and many of his friends had access unto him; who telling him what they heard of his confession, he protested unto them, that he had only acknowledged the King's civil and temporal power, without any confession or admittance of his authority in spiritual causes. This being reported unto the Lord-Deputy, by sundry gentlemen who gave faith unto what he said, his Lordship thought fit, that since he had incurred the pain of Præmunire, by exercising episcopal jurisdiction, as Vicar-General to the Pope, that he should be attainted of that offence, as well to make him an example to others of his profession (for almost in every diocese of this kingdom, there is a titulary bishop ordained by the Pope), as also, that at the time of his trial, a just occasion might be taken, to publish the confession and acknowledgment which he had voluntarily made, signed, and confirmed by oath before the Lord-Deputy and Council, who have likewise subscribed their names as witnesses thereof.

CALIFORNIA.

Hereupon, in Hil. Term, 4 Jac., an indictment was framed against him in the King's Bench, upon the stat. of 16 Rich. 2. cap. 5, containing these several points.

The indictment of Lalor upon the stat. of 16 Rich. 2. c. 5.

1. That he had received a bull or brief, purchased or procured in the Court of Rome, which bull or brief did touch or concern the King's crown and dignity royal, containing a commission of authority from the Pope of Rome unto Richard Brady and David Magragh to constitute a Vicar-General for the See of Rome, by the name of the See Apostolic, in the several dioceses of Dublin, Kildare and Ferns, within this kingdom of Ireland.

2. That by pretext or colour of that bull or brief, he was constituted Vicar-General of the See of Rome, and took upon him the style and title of Vicar-General in the said several dioceses.

3. That he did exercise ecclesiastical jurisdiction as Vicar-General of the See of Rome, by instituting divers persons to benefices with cure of souls, by granting dispensations in causes matrimonial, by pronouncing sentences of divorce between divers married persons, and by doing all other acts and things pertaining to episcopal jurisdiction, within the said several dioceses, against our sovereign Lord the King, his crown and dignity royal, and in contempt of his Majesty, and disherison of his crown, and contrary to the form and effect of the statute, &c.

To this indictment Lalor pleaded, not guilty; and when the issue was to be tried, the name and reputa-

tion of the man, and the nature of the cause, drew all the principal gentlemen both of the pale and provinces, that were in town, to the hearing of the matter. At which time, a substantial jury of the city of Dublin being sworn for the trial, and the points of the indictment being opened and set forth by the King's Serjeant; the Attorney-General thought it not impertinent, but very necessary, before he descended to the particular evidence against the prisoner, to inform and satisfy the hearers in two points.

1. What reason moved us to ground this indictment upon the old statute of 16 Rich. 2, rather than upon some other later law made since the time of King Henry 8.

2. What were the true causes of the making of this law of 16 Rich., and other formal laws against provisors, and such as did appeal to the Court of Rome in those times, when both the prince and people of England did for the most part acknowledge the Pope to be the thirteenth apostle, and only oracle in matters of religion, and did follow his doctrine in most of those points wherein we now dissent from him.

1. For the first point we did purposely forbear to proceed against him upon any later law, to the end that such as were ignorant might be informed, that long before King Henry 8 was born, divers laws were made against the usurpation of the Bishop of Rome upon the rights of the Crown of England, well-

nigh as sharp and severe as any statutes which have been made in later times; and that therefore we made choice to proceed upon a law made more than 200 years past, when the King, the Lords and Commons, which made the laws, and the Judges which did interpret the laws, did for the most part follow the same opinions in religion, which were taught and held in the Court of Rome.

The true cause of making the stat. 16 Rich. 2. and other statutes against provisors.

2. For the second point, the causes that moved, and almost enforced the English nation to make this, and other statutes of the same nature, were of the greatest importance that could possibly arise in any state. For these laws were made to uphold and maintain the sovereignty of the King, the liberty of the people, the common law, and the commonweal, which otherwise had been undermined and utterly ruined by the usurpation of the Bishop of Rome.

For albeit the kings of England were absolute emperors within their dominions, and had under them as learned a prelacy and clergy, as valiant and prudent a nobility, as free and wealthy a commonalty, as any was then in Christendom; yet if we look into the stories and records of these two imperial kingdoms, we shall find, that if these laws of provision and Præmunire had not been made, they had lost the name of imperial, and of kingdoms too, and had been long since made tributary provinces to the Bishop of Rome, or rather part of St. Peter's patrimony in demesne. Our kings had their sceptres wrested out of their hands, their crowns spurned off from their

heads, their necks trod upon, they had been made lacqueys or footmen to the Bishop of Rome, as some of the emperors and French kings were; our prelates had been made his chaplains and clerks, our nobility his vassals and servants, our commons his slaves and villeins, if these acts of manumission had not freed them. In a word, before the making of these laws, the flourishing crown and commonwealth of England was in extreme danger to have been brought into most miserable servitude and slavery, under colour of religion and devotion to the See of Rome. And this was not only seen and felt by the King, and much repined at and protested against by the nobility, but the commons, the general multitude of the subjects, did exclaim and cry out upon it.

For the Commons of England may be an example unto all other subjects in the world in this, that they have ever been tender and sensible of the wrongs and dishonours offered unto their kings, and have ever contended to uphold and maintain their honour and sovereignty. And their faith and loyalty have been generally such (though every age hath brought forth some particular monsters of disloyalty), as no pretence of zeal or religion could ever withdraw the greater part of the subjects to submit themselves to a foreign yoke,—no, not when Popery was in her height and exaltation; whereof this Act, and divers others of the same kind, are clear and manifest testimonies. For this Act of 16 Rich. 2 was made at the prayer of the Commons; which prayer they make not for themselves,

The statute of Præmunire made at the prayer of the Commons.

neither show they their own self-love therein (as in other bills which contain their grievances), but their love and zeal to the King and his Crown. When, after the Norman conquest, they importuned their kings for the great Charter, they sought their own liberties; and in other bills preferred commonly by the Commons against sheriffs, escheators, purveyors, or the like, they seek their own profit and ease; but here their petition is to the King, to make a law for the defence and maintenance of his own honour. They complain, that by bulls and processes from Rome, the King is deprived of that jurisdiction, which belongs of right to his imperial Crown; that the King doth lose the service and counsel of his prelates and learned men, by translations made by the Bishop of Rome; that the King's laws are defeated at *his* will, the treasure of the realm is exhausted and exported to enrich *his* court; and that by those means the Crown of *England*, which hath ever been free, and subject unto none, but immediately unto God, should be submitted unto the Bishop of *Rome*, to the utter destruction of the King and the whole realm; which God defend, say they: and thereupon, out of their exceeding zeal and fervency, they offer to live and die with the King, in defence of the liberties of the Crown. And lastly, they pray and require the King, by way of justice, to examine all the lords in Parliament, what they thought of these manifest wrongs and usurpations, and whether they would stand with the King in defence of his royal

The effect of the stat. of 16 R. 2. cap. 5.

liberties or no. Which the King did according to their petition; and the Lords Spiritual and Temporal did all answer, that these usurpations of the Bishop of Rome were against the liberties of the Crown, and that they were all bound by their allegiance to stand with the King, and to maintain his honour and prerogative. And thereupon it was enacted, with a full consent of the three estates, that such as should purchase in the Court of Rome, or elsewhere, any bulls or processes, or other things which might touch the King in his crown and dignity royal, and such as should bring them into the realm, and such as should receive them, publish them or execute them, they, their notaries, proctors, maintainors and counsellors, should be all out of the King's protection, their lands and goods forfeited to the King, their bodies attached if they might be found, or else process of præmunire facias to be awarded against them. Upon these motives, and with this affection and zeal of the people, was the statute of 16 Rich. 2 made whereupon we have framed our indictment.

Now let us look higher, and see whether the former laws made by King Ed. 1, and King Ed. 3 against the usurpation of the Bishop of Rome, were not grounded upon the like cause and reason. The statute of 38 Ed. 3. cap. 1, expressing the mischiefs that did arise by briefs of citation, which drew the bodies of the people, and by bulls of provision and reservation of ecclesiastical benefices, which drew the wealth of the realm to the Court of Rome, doth

The effect of the stat. of 38 Ed. 3. st. 2. cap. 1.

declare, that by these means the ancient laws, customs and franchises of the realm were confounded, the Crown of our sovereign Lord the King diminished, and his person falsely defamed, the treasure and riches of the land carried away, the subjects of the realm molested and impoverished, the benefices of holy Church wasted and destroyed, Divine service, hospitality, alms-deeds and other works of charity neglected.

The stat. of 27 Ed. 3. st. 1. cap. 1.

Again, 27 Ed. 3. cap. 1, upon the grievous and clamorous complaint (for that phrase is there used) of the great men and commons touching citations and provisions, it is enacted, that the offenders shall forfeit their lands, goods and chattels, and their bodies be imprisoned and ransomed at the King's will.

The stat. of 25 Ed. 3, st. 6, reciting the stat. of 35 Ed. 1. c. 1.

But, in the statute of 25 Ed. 3, wherein the first law against provisors made 25 Ed. 1, is recited, there is a larger declaration of these inconveniences than in the two last Acts before mentioned. For there all the commons of the realm do grievously complain, that whereas the holy Church of England was first founded in estate of prelacy by the kings and nobility of that realm, and by them endowed with great possessions and revenues in lands, rents, and advowsons, to the end the people might be informed in religion, hospitality might be kept, and other works of charity might be exercised within the realm; and whereas the King and other founders of the said prelacies were the rightful patrons and advowees thereof, and

upon avoidance of such ecclesiastical promotions had power to advance thereunto their kinsmen, friends, and other learned men of the birth of that realm, which being so advanced became able and worthy persons to serve the King in counsel, and other places in the Commonweal; the Bishop of Rome, usurping the seignory of such possessions and benefices, did give and grant the same to aliens, which did never dwell in England, and to Cardinals, which might not dwell there, as if he were rightful patron of those benefices; whereas by the law of England he never had right to the patronage thereof; whereby in short time all the spiritual promotions in the realm would be engrossed into the hands of strangers, canonical elections of prelates would be abolished, works of charity would cease, the founders and true patrons of churches would be disinherited, the King's counsel would be weakened, the whole kingdom impoverished, and the laws and rights of the realm destroyed. Upon this complaint it was resolved in Parliament, that these oppressions and grievances should not be suffered in any manner; and therefore it was enacted, that the King and his subjects should thenceforth enjoy the rights of patronage; that free elections of archbishops, bishops, and other prelates elective, should be made according to the ancient grants of the King's progenitors and their founders; that no bulls of provision should be put in execution, but that the provisors should be attached, fined, and ransomed at the King's will, and withal imprisoned, till they had

renounced the benefits of their bulls, satisfied the party grieved, and given sureties not to commit the like offence again.

Now, Master Lalor, what think you of these things? Did you believe that such laws as these had been made against the Pope, 200, 250, 300 years since? Was King Henry 8, the first prince that opposed the Pope's usurped authority? Were our Protestants the first subjects that ever complained of the Court of Rome? Of what religion, think you, were the propounders and enacters of these laws? Were they good Catholics, or good subjects? or what were they? You will not say they were Protestants, for you will not admit the reformed religion to be so ancient as those times; neither can you say they were undutiful, for they strove to uphold their liege Lord's sovereignty. Doubtless the people in those days did generally embrace the vulgar errors and superstitions of the Romish Church, and in that respect were Papists as well as you: but they had not learned the new doctrine of the Pope's supremacy, and transcendant authority over Kings; they did not believe he had power to depose princes, and discharge subjects of their allegiance, to abrogate the fundamental laws of kingdoms, and to impose his canons as binding laws upon all nations, without their consents; they thought it a good point of religion to be good subjects, to honour their King, to love their country, and to maintain the laws and liberties thereof, how-

These laws made by such as did profess the Romish religion.

soever in other points they did err and were misled with the Church of Rome.

So as now, Master Lalor, you have no excuse, no evasion, but your conscience must condemn you as well as the law; since the law-makers in all ages, and all religious Papists and Protestants, do condemn you; unless you think yourself wiser than all the Bishops that were then in England, or all the Judges, who in those days were learned in the civil and canon laws as well as in the common laws of England.

Laws against provisors made in Ireland.

But you, being an Irishman, will say, perhaps, these laws were made in England, and that the Irish nation gave no particular consent thereunto, only there was an implicit consent wrapt and folded up in general terms, given in the stat. of 10 Hen. 7, cap. 22, whereby all statutes made in England are established and made of force in Ireland. Assuredly, though the first Parliament held in Ireland was after the first law against provisors made in England, yet have there been as many particular laws made in Ireland against provisions, citations, bulls, and briefs of the Court of Rome, as are to be found in all the Parliament-rolls in England. What will you say if in the selfsame Parliament of 10 Hen. 7, cap. 5, a special law were made, enacting, authorizing, and confirming in this realm all the statutes of England made against provisors? If before this the like law were made, 32 Hen. 6, cap. 4, and again 28 Hen. 6, cap. 30, the like? and before that, the like law were made 40 Ed. 3, cap. 13, in

the famous Parliament of Kilkenny? If a statute of the same nature were made 7 Ed. 4, cap. 2, and a severer law than all these, 16 Ed. 4, cap. 4, that such as purchase any bulls of provision in the Court of Rome, as soon as they have published or executed the same to the hurt of any incumbent, should be adjudged traitors? Which Act, if it be not repealed by the statute of Queen Mary, may terrify Master Lalor more than all the Acts which are before remembered.

When the Pope began first to usurp upon the liberties of the Crown of England.

But let us ascend yet higher, to see when the Pope's usurpation, which caused all these complaints, began in England, with what success it was continued, and by what degrees it rose to that height, that it well-nigh overtopped the Crown; whereby it will appear whether he had gained a circle by prescription, by a long and quiet possession, before the making of these laws.

The first encroachment of the Bishop of Rome upon the liberties of the Crown of England, was made in the time of King William the Conqueror. For before that time the Pope's writ did not run in England, his bulls of excommunication and provision came not thither; no citation, no appeals were made from thence to the Court of Rome; our Archbishops did not purchase their palls there, neither had the Pope the investiture of any of our bishopricks. For it is to be observed, that as under the temporal monarchy of Rome, Britany was one of the last provinces that was won, and one of the first that was lost again:

so under the spiritual monarchy of the Pope of Rome, England was one of the last countries of Christendom that received his yoke, and was again one of the first that did reject and cast it off. And truly, as in this, so in divers other points, the course of this spiritual monarchy of the Pope may be aptly compared with the course of the temporal monarchies of the world. For as the temporal monarchies were first raised by intrusion upon other princes and commonweals; so did this spiritual prince (as they now style him) grow to his greatness by usurping upon other States and Churches. As the temporal monarchies, following the course of the sun, did rise in the east, and settle in the west; so did the hierarchy or government of the Church. Of the four temporal monarchies, the first two were in Asia, the latter two in Europe; but the Roman monarchy did surpass and suppress them all: so were there four great patriarchs, or ecclesiastical hierarchies, two in the east and two in the west, but the Roman patriarch exalted himself, and usurped a supremacy above them all. And as the rising of the Roman Empire was most opposed of Carthage in Africa, (æmula Romæ Carthago;) so the Council of Carthage and the African Bishops did first forbid appeals to Rome, and opposed the supremacy of the Pope. And doth not Daniel's image, whose head was of gold, and legs and feet of iron and clay, represent this spiritual monarchy as well as the temporal, whereas the first Bishops of Rome were golden priests, though they had but

wooden chalices, and that the Popes of later times have been for the most part worldly and earthly-minded? and as the northern nations first revolted from the Roman monarchy, and at last brake it in pieces; have not the north and north-west nations first fallen away from the Papacy? and are they not like in the end to bring it to ruin?

The Pope had no jurisdiction in England in the time of the Britons.

But to return to our purpose: the Bishop of Rome, before the first Norman conquest, had no jurisdiction in the realm of England, neither in the time of the Britons, nor in the time of the Saxons. Eleutherius, the Pope, within less than 200 years after Christ, writes to Lucius, the British king, and calls him God's vicar within his kingdom: which title he would not have given to that king, if himself, under pretence of being God's vicar-general on earth, had claimed jurisdiction over all Christian kingdoms.

Pelagius, the monk of Bangor, about the year 400, being cited to Rome, refused to appear upon the Pope's citation, affirming that Britain was neither within his diocese nor his province.

After that, about the year 600, Augustine, the monk, was sent by Gregory the Great into England, to convert the Saxons to Christian religion: the British bishops then remaining in Wales regarded not his commission nor his doctrine, as not owing any duty nor having any dependancy on the Court of Rome, but still retained their ceremonies and traditions which they received from the East Church, upon the first plantation of the faith in that island, being divers

and contrary to those of the Church of Rome, which Augustine did endeavour to impose upon them.

The like doth Beda write of the Irish priests and bishops. For in the year 660, he reporteth that a Convocation of the clergy being called by King Oswif, there rose a disputation between Colman, one of our Irish saints, then present in that Synod, and Wilfrid, a Saxon priest, touching the observation of Easter, wherein the British and Irish Churches did then differ from the Church of Rome. Colman, for the celebration of Easter used in Ireland, affirmed it was the same, quod beatus evangelista Johannes, discipulus specialiter à Domino dilectus, in omnibus quibus præerat ecclesiis celebrâsse legitur. On the other part, Wilfrid alleged, that all the Churches of Christendom did then celebrate Easter after the Roman manner, except the Churches of the Britons and Picts, qui contra totum orbem (saith he) stulto labore pugnant. Whereunto Colman replied, " Miror quare stultum laborem appellas, in quo tanti apostoli, qui super pectus Domini recumbere dignus fuit, exempla sectamur. Numquid reverendissimum patrem nostrum Columbam et ejus successores, viros à Deo dilectos, divinis paginis contraria sapuisse aut egisse credendum est?" In this disputation or dialogue two things may be observed: first, that at this time the authority of the Bishop of Rome was of no estimation in these islands: next, that the primitive Churches of Britany and Ireland were instituted according to the form and discipline of the East Churches, and not of the West, and

planted by the disciples of John, and not of Peter. Thus much for the time of the Britons.

For the Saxons, though King Ina gave the Peter-pence to the Pope, partly as alms, and partly in recompense of a house erected in Rome for entertainment of English pilgrims; yet it is certain that Alfred and Athelstane, Edgar and Edmund, Canutus and Edward the Confessor, and divers other Kings of the Saxon race, did give all the bishopricks in England per annulum et baculum, without any other ceremony, as the Emperor and French King, and other Christian princes were wont to do. They made also several laws for the government of the Church: among others, St. Edward begins his laws with this protestation, that it is his princely charge, ut populum domini, et super omnia sanctam ecclesiam, regat et gubernet. And King Edgar, in his oration to his English clergy, "Ego (saith he) Constantini, vos Petri gladium habetis: jungamus dextras, et gladium gladio copulemus, ut ejiciantur extra castra, leprosi, et purgetur sanctuarium Domini." So as the Kings of England, with their own clergy, did govern the Church, and therein sought no aid of the Court of Rome. And the truth is, that though the Pope had then long hands, yet he did not extend them so far as England, because they were full of business nearer home in drawing the Emperor and the French King under his yoke.

The first usurpation of the Pope upon the Crown began in the time of

But upon the conquest made by the Norman, he apprehended the first occasion to usurp upon the liberties of the Crown of England. For the Conqueror came

King William the Conqueror.

in with the Pope's banner, and under it won the battle which got him the garland; and therefore the Pope presumed he might boldly pluck some flowers from it, being partly gained by his countenance and blessing.

By sending Legates into England.

Hereupon he sent two Legates into England, which were admitted and received by the Conqueror. With them he called a Synod of the clergy, and deposed old Stigand, Archbishop of Canterbury, because he had not purchased his pall in the Court of Rome; he displaced many bishops and abbots to place his Normans in their rooms. And amongst the rest it is to be noted that the King, having earnestly moved Wolstan, Bishop of Worcester, being then very aged, to give up his staff, his answer was, that he would give up his staff only to him of whom he first received the same. And so the old man went to St. Edward's tomb, and there offered up his staff and ring, with these words: "Of thee, O holy Edward, I received my staff and my ring, and to thee I do now surrender the same again." Which proves that before the Norman Conquest the King did invest his bishops per annulum et baculum, as I said before.

Thus we see, by the admission of the Pope's Legates, the first step or entry made into his usurped jurisdiction in England. Albeit, the King still retained the absolute power of investing bishops, and seemed only to use the advice and assistance of the Legates in ecclesiastical matters; for that no decree passed or was put in execution without his Royal Assent thereunto. Besides, how far forth he sub-

mitted himself to the Pope, it appeareth by a short epistle he wrote to Gregory 7, in this form :—"Excellentissimo sanctæ ecclesiæ Pastori, Gregorio, gratia Dei Anglorum Rex et Dux Normanorum Willielmus salutem cum amicitia. Hubertus Legatus tuus, religiose pater, ad me veniens ex tua parte, me admonuit, ut tibi et successoribus tuis fidelitatem facerem, et de pecunia quam antecessores mei ad Romanam ecclesiam mittere solebant melius cogitarem. Unum admisi, alterum non admisi; fidelitatem facere nolui, nec volo, quia nec ego promisi nec antecessores meos antecessoribus tuis id fecisse comperio. Pecunia tribus ferè annis, in Galliis me agente, negligenter collecta est; nunc vero divina misericordia me in regnum meum reverso, quod collectum est per præfatum legatum mittetur; et quod reliquum est, per legatos Lanfranci archiepiscopi fidelis nostri, cum opportunum fuerit, transmittetur," &c.

In the time of Will. Rufus the Pope attempted to draw appeals to Rome but prevailed not.

But in the time of his next successor, King William Rufus, they attempted to pass one degree farther, that is, to draw appeals to the Court of Rome. For Anselme being made Archbishop of Canterbury, and being at some difference with the King, besought his leave to go to Rome, under pretence of fetching his pall. The King, knowing he would appeal to the Pope, denied him leave to go, and withal told him that none of his bishops ought to be subject to the Pope, but the Pope himself ought to be subject to the Emperor; and that the King of England had the same absolute liberties in his dominions as the Emperor had

in the empire; and that it was an ancient custom and law in England, used time out of mind before the Conquest, that none might appeal to the Pope without the King's leave; and that he that breaketh this law or custom doth violate the Crown and dignity Royal, "and he that violates my Crown (saith he) is mine enemy and a traitor. How answer you this?" quoth the King. "Christ himself answers you," saith the Archbishop, "Tu es Petrus, et super hanc Petram," &c., wherewith the King was nothing satisfied. And thereupon Anselme departing out of the realm without license, the King seised his temporalties, and became so exasperate and implacable towards the Bishop, as he kept him in perpetual exile during his reign, albeit great intercession were made for his return, as well by the Pope as the King of France.

In the time of King Henry the First, the Pope usurpeth the donation of bishopricks, &c.

In the time of the next King, Hen. I., though he was a learned and a prudent prince, yet they sought to gain a farther point upon him, and to pluck a flower from his Crown of greater value, namely, the patronage and donation of bishopricks, and all other benefices ecclesiastical. For Anselme being revoked and re-established in the see of Canterbury, the bishopricks of Salisbury and Hereford fell void, which the King bestowed on two of his chaplains. But Anselme, their metropolitan, did refuse to consecrate them, so as the Archbishop of York was fain to perform that office, who, with the chief of the English clergy, stood with the King, and withstood Anselme. Hereupon the King requires him to do his homage;

the Bishop denies it. The King demands of him whether the patronage and investiture of all bishopricks were not his rightful inheritance: the Bishop said it was not his right, because Pope Urban had lately made a decree that no lay person should give any ecclesiastical benefice. This was the first question that ever was made touching the King of England's right of patronage and donation of bishopricks within his dominions. This new question caused many messages and embassages to Rome. At last, the King writes plainly to the Pope: "Notum habeat sanctitas vestra, quod me vivente (Deo auxiliante) dignitates et usus regni nostri non minuentur, et si ego (quod absit) in tanta me directione ponerem, magnates mei, imo totius Angliæ populus id nullo modo pateretur." Besides, William de Warrenast, the King's Procurator in the Court of Rome, told the Pope that the King would rather lose his kingdom than he would lose the donation of bishopricks. The Pope answered, "Know you precisely, Sir, I speak it before God, that for the redemption of my head I would not suffer him to enjoy it."

Hist. Jornalensis MS. in Archiv. Rob. Cotton, Eq. Aur.

After this, Anselme being received into the King's favour, in a Synod of the English clergy, holden at London, in the year 1107, a decree was made, "Cui annuit Rex Henricus," said Matt. Paris, that from thenceforth, "nunquam per donationem baculi pastoralis vel annuli quisquam de episcopatu vel abbathia per regem, vel quamlibet laicam manum, investiretur in Anglia." In recompense whereof, the Pope yielded

this favour to the King, that thenceforth no Legate should be sent from the Pope's side into England, unless the King required it; and that the Archbishop of Canterbury for the time being should be for ever Legatus natus; and Anselme, for the honour of his see, obtained, that the Archbishop of Canterbury should in all General Councils sit at the Pope's foot, "tanquam alterius orbis papa." Notwithstanding as the succeeding Popes kept not their promise touching the sending of Legates, so this selfsame King, after the death of Anselme, broke the decree touching the investiture of the bishops. For he gave the archbishoprick of Canterbury to Rodolph, Bishop of London, saith Matt. Paris, "et illum per annulum et pastoralem baculum investitit;" as before he had invested Willielmum Gifford in the bishoprick of Winchester, "contra novi concilii statuta," as the same author reporteth.

In the time of King Stephen, the Pope gained appeals to the Court of Rome.

The times of the next succeeding King, Stephen, were full of civil dissensions, which made the land well-nigh waste, so as St. Peter's successor could not take any fish in such troubled waters. Yet during this King's reign they won that point of jurisdiction which they attempted to get, but failed thereof, in the time of King William Rufus, namely, that appeals might be made to the Court of Rome. For in a Synod at London, summoned by Hen., Bishop of Winchester, the Pope's Legate, it was decreed that appeals should be made from provincial Councils to the Pope. Before that time "appella-

tiones in usu non erant," saith a monk of that time, "donec Henricus Winton. Episcopus malo suo, dum legatus esset, crudeliter intrusit." Thus did the Pope usurp three main points of jurisdiction upon three several kings after the Conquest (for of William Rufus he could win nothing), namely, upon the Conqueror, the sending of Legates, or Commissioners, to hear and determine ecclesiastical causes; upon Hen. I., the donation and investitures of bishopricks and other benefices; upon King Stephen, the appeals to the Court of Rome.

In the time of King Henry 2, the Pope claimed exemption of Clerks from the secular power.

Now are we come to King Hen. 2, in whose time they made a farther encroachment upon the Crown, whereby they endeavoured to make him but half a king, and to take away half his subjects, by exempting all clerks from secular power. Hereupon rose that long and great contention between Hen. 2 and Thomas Becket, which, on Becket's behalf, may be rightly termed rebellion and treason; the just cause and ground whereof was the same that made the late difference between the Pope and the Venetians. For a priest had committed a foul murder, and being thereof indicted and convicted, prayed the benefit of his clergy; which being allowed unto him, he was delivered to the Bishop of Salisbury, being his ordinary, to make his purgation; which the murderer failing to do, should by the law have been degraded, and delivered back to the secular power. But the Bishop, contemning the law of the land, to enlarge

A brief of Tho. Becket's troubles, or rather treasons.

the liberties of the Church, sent his prisoner to Thomas Becket, then Archbishop of Canterbury, who shifted him into an abbey, and so rescued him from the capital punishment he had justly deserved.

This gap of impunity being once opened, the clergy grew so outrageous, as the King was informed of a hundred murders committed by clerks, and yet not one of them executed for the same; for that the Archbishop had protected them all after the same manner. For this the King was justly incensed against the Archbishop, who justified his doing herein. Whereupon a Common Council, as well of the bishops as of the nobility, was called, wherein they did revive and re-establish the ancient laws and customs of the kingdom for the government of the clergy, and ordering of causes ecclesiastical, whereof these were the principal heads or articles:—

The constitutions of Clarendon.

1. That no Bishop nor Clerk should depart the realm without the King's license; and that such as obtained license should give securities that they should procure no hurt or damage to the King or realm during their absence in foreign parts.

2. That all bishopricks and abbeys being void should remain in the King's hands as his own demesnes, until he had chosen and appointed a prelate thereunto; and that every such prelate should do his homage to the King before he were admitted into the place.

3. That appeals should be made in causes ecclesi-

astical in this manner; from the Archdeacon to the Ordinary, from the Ordinary to the Metropolitan, from the Metropolitan to the King, and no farther.

4. That Peter-pence should be paid no more to the Pope, but to the King.

5. That if any clerk should commit felony, he should be hanged; if treason, he should be drawn and quartered.

6. That it should be adjudged high treason to bring in bulls of excommunication whereby the realm should be cursed.

7. That no decree should be brought from the Pope to be executed in England, upon pain of imprisonment and confiscation of goods.

To these and other constitutions of the like nature, made at Claringdon, all the rest of the Bishops and great men did subscribe, and bound themselves by oath to observe the same absolutely; only the Archbishop would not subscribe, and swear, but with a saving "salvo suo ordine et honore sanctæ ecclesiæ;" yet at last he was content to make the like absolute subscription and oath as the rest had done; but presently he repented, and, to show his repentance, suspended himself from celebrating mass, till he had received absolution from the Pope. Then he began to maintain and justify the exemption of clerks again; whereat the King's displeasure was kindled anew; and then the Archbishop once again promised absolute obedience to the King's laws. (See the fickleness and mutability of your constant martyr.) The King,

to bind fast the slippery Proteus, called a Parliament of the Bishops and Barons, and sending for the roll of those laws, required all the Bishops to set their seals thereunto. They all assented but the Archbishop, who protested he would not set his seal, nor give allowance to those laws. The King being highly offended with his rebellious demeanour, required the Barons in Parliament to give judgment of him, who being his subject would not be ruled by his laws: "Cito facite mihi justitiam de illo qui homo meus ligeus est, et stare juri in curia mea recusat." Whereupon the Barons proceeding against him, and being ready to condemn him; "I prohibit you (quoth the Archbishop) in the name of Almighty God to proceed against me, for I have appealed to the Pope;" and so departed in contempt of that high court, "omnibus clamantibus," saith Hovenden, "Quo progrederis, proditor? exspecta et audi judicium tuum." After this he lurked secretly near the sea-shore, and changing his apparel and name (like a Jesuit of these times), he took shipping with a purpose to fly to Rome; but his passage being hindered by contrary winds, he was summoned to a Parliament in Northampton, where he made default wilfully; for which contempt his temporalties were seized, and his body being attached, he was charged with so great an account to the King, as that he was found in arrear thirty thousand marks, and committed to prison; whence he found means to escape shortly after, and to pass out of the realm to Rome. He was no sooner gone,

but the King sends writs to all the Sheriffs in England to attach the bodies of all such as made any appeals to the Court of Rome. Hereupon many messages and letters passing to and fro, all the suffragans of Canterbury join in a letter to the Pope, wherein they condemn the fugitive Archbishop, and justify the King's proceedings. Upon this the Pope sends two legates to the King, being then in Normandy, to mediate for the Archbishop. They, with the mediation of the French King, prevailed so far with King Henry, as that he was pleased to accept his submission once again, and promised the King of France, that if he would be obedient to his laws, he should enjoy as ample liberties as any Archbishop of Canterbury ever had; and so sent him into England with recommendation unto the young King, his son, then lately crowned; who, hearing of his coming, commanded him to forbear to come to his presence, until he had absolved the Archbishop of York and others whom he had excommunicated for performing their duties at his coronation. The Archbishop returned answer, that they had done him wrong in usurping his office; yet if they would take a solemn oath to become obedient to the Pope's commandment in all things concerning the Church, he would absolve them. The Bishops understanding this, protested they would never take that oath unless the King willed them so to do. King Hen. the father being hereof advertised into France, did rise into great passion and choler, and in the hearing of his servants uttered words to

this effect: Will no man avenge me of mine enemies? Whereupon the four gentlemen named in the stories of that time passed into England, and first moving the Archbishop to absolve the Bishops whom he had excommunicated for performing their duties at the young King's coronation, and receiving a peremptory answer of denial from the Archbishop, they laid violent hands upon him, and slew him; for which the King was fain not only to suffer corporal penance, but, in token of his humiliation, to kiss the knee of the Pope's legate. And this is the abridgment of Becket's troubles, or rather treasons, for which he was celebrated for so famous a martyr. And thus you see by what degrees the Court of Rome did, within the space of 100 and odd years, usurp upon the Crown of England four points of jurisdiction,—viz., first, sending out of legates into England; secondly, drawing of appeals to the Court of Rome; thirdly, donation of bishopricks and other ecclesiastical benefices; and, fourthly, exemption of clerks from the secular power. And you see withal how our Kings and Parliaments have from time to time opposed and withstood this unjust usurpation.

Four points of jurisdiction usurped upon the Crown of England by the Pope before the reign of King John.

Now then the Bishop of Rome having claimed and well-nigh recovered full and sole jurisdiction in all causes ecclesiastical, and over all persons ecclesiastical, with power to dispose of all ecclesiastical benefices in England, whereby he had upon the matter made an absolute conquest of more than half the kingdom, (for every one that could read the psalm of Miserere

was a clerk, and the clergy possessed the moiety of all temporal possessions,) there remained now nothing to make him owner and proprietor of all, but to get a surrender of the Crown, and to make the King his farmer, and the people his villains, which he fully accomplished and brought to pass in the times of King John and of Hen. 3.

The cause of the quarrel between King John and the Pope.

The quarrel between the Pope and King John, which wrested the sceptre out of his hand, and in the end brake his heart, began about the election of the Archbishop of Canterbury. I call it election, and not donation or investiture; for the manner of investing of Bishops by the staff and ring after the time of King Hen. 1 was not any more used, but by the King's license they were canonically elected, and being elected, the King gave his Royal Assent to their election, and by restitution of their temporalties did fully invest them. And though this course of election began to be in use in the time of Rich. 1 and Hen. 2, yet I find it not confirmed by any constitution or charter before the time of King John, who by his charter, dated the 15th of January, in the sixteenth year of his reign, granted this privilege to the Church of England in these words, viz., Quod qualiscunque consuetudo temporibus prædecessorum nostrorum hactenus in Ecclesia Anglicana fuerit observata, et quicquid juris nobis hactenus vindicaverimus, de cætero in universis et singulis ecclesiis et monasteriis, cathedralibus et conventualibus, totius regni Angliæ, liberæ sint in perpetuum electiones quorumcunque

When canonical election began first in England.

prælatorum, majorum et minorum. Salva nobis et hæredibus nostris custodia ecclesiarum et monasteriorum vacantium quæ ad nos pertinent. Promittimus etiam quod nec impediemus nec impediri permittemus per ministros nostros, nec procurabimus, quin in universis et singulis monasteriis et ecclesiis, postquam vacuerint prælaturæ, quemcunque voluerint libere sibi præficiant electores pastorum, petita tamen a nobis prius et hæredibus nostris licentia eligendi, quam non denegabimus nec differemus. Et similiter, post celebratam electionem, noster requiratur assensus, quem non denegabimus, nisi adversus eandem rationale proposuerimus, et legitime probaverimus propter quod non debemus consentire, &c.

But to return to the cause of his great quarrel with the Pope. The See of Canterbury being void, the monks of Canterbury suddenly and secretly without the King's license, elected one Reignold, their subprior, to be Archbishop, who immediately posted away to be confirmed by the Pope. But when he came there, the Pope rejected him, because he came not recommended from the King. Hereupon the monks made suit to the King to nominate some fit person to whose election they might proceed. The King commends John Grey, Bishop of Norwich, his principal counsellor, who was afterwards Lord Justice of this kingdom, who with a full consent was elected by them, and afterwards admitted and fully invested by the King. These two elections bred such a controversy as none might determine but the Pope,

who gave a short rule in the case, for he pronounced both elections void, and caused some of the monks of Canterbury, who were then present in the Court of Rome, to proceed to the election of Stephen Langton, lately made Cardinal at the motion and suit of the French King: who being so elected was forthwith confirmed and consecrated by the Pope, and recommended to the King of England with a flattering letter, and a present of four rings set with precious stones, which were of great value and estimation in those days. Howbeit the King more esteeming this jewel of the Crown, namely, the patronage of bishopricks, returned a round and kingly answer to the Pope, that inconsiderately and rashly he had cassed and made void the election of the Bishop of Norwich, and had caused one Langton, a man to him unknown, and bred up and nourished amongst his mortal enemies, to be consecrated Archbishop, without any due form of election, and without his Royal Assent, which was most of all requisite by the ancient laws and customs of his realm. That he marvelled much, that the Pope himself and the whole Court of Rome did not consider what a precious account they ought to make of the King of England's friendship, in regard that his own kingdom did yield them more profit and revenue than all the other countries on this side of the Alps. To conclude, he would maintain the liberties of the Crown to his death, he would restrain all his subjects from going to Rome. And since the Archbishops, Bishops, and other prelates

King John's round and kingly letter to the Pope.

within his dominions were as learned and religious as any other in Christendom, his subjects should be judged by them in ecclesiastical matters, and should not need to run out of their own country to beg justice at the hands of strangers.

The Pope curseth the King and interdicteth the realm.

But what followed upon this? The Pope, after a sharp reply, sendeth forth a bull of malediction against the King, and of interdiction against the realm, whereby all the churches in England were shut up, the priests and religious persons were forbidden to use any Liturgies or Divine service, to marry, to bury, or to perform any Christian duty among the people. This put the King into such a rage, that he on the other part seized the temporalties of all Bishops and Abbots, and confiscated the goods of all the clergy. Then the Pope by a solemn sentence at Rome deposed the King, and by a Bull sent into England dischargeth his subjects of their allegiance, and by a legate sent to the King of France, gave the kingdom of England to him and his successors for ever.

These things brought such confusion and misery to all estates and degrees in England, as the King became odious to all his subjects, as well to the laity as to the clergy. For as the Bishops and religious people cursed him abroad, so the Barons took arms against him at home, till by much bloodshed they forced him, by granting the Great Charter, to restore King Edward's laws, containing the ancient liberties of the subjects of England. The Pope being a spectator of this tragedy, and seeing the King in so weak and

desperate estate, sent a legate to comfort him, and to make a reasonable motion unto him; to wit, that he should surrender and give up his Crown and kingdom to the Pope, which should be regranted unto him again to hold in fee-farm and vassalage of the Church of Rome; and that thereupon the Pope would bless him and his realm again, and curse his rebels and enemies in such sort, as he should be better established in his kingdom than he was before. In a word, this motion was presently embraced by that miserable King, so as with his own hands he gave up the Crown to the Pope's legate, and by an instrument or charter sealed with a bull or seal of gold, he granted to God and the Church of Rome, the apostles Peter and Paul, and to Pope Innocent the Third and his successors, the whole kingdom of England, and the whole kingdom of Ireland; and took back an estate thereof by an instrument sealed with lead, yielding yearly to the Church of Rome, over and above the Peter-pence, a thousand marks sterling, viz., seven hundred marks for England, and three hundred marks for Ireland, with a flattering saving of all his liberties and royalties. The Pope had no sooner gotten this conveyance, though it were void in law, but he excommunicateth the Barons, and repeals the Great Charter, affirming that it contained liberties too great for his subjects; calls the King his vassal, and these kingdoms St. Peter's patrimony; grants a general Bull of provision for the bestowing of all ecclesiastical benefices, and takes upon him to be absolute and

immediate lord of all. And thus, under colour of exercising jurisdiction within these kingdoms, the Pope, by degrees, got the very kingdoms themselves. And so would he do at this day, if the King would give way to his jurisdiction.

But what use did the Pope make of this grant and surrender of the Crown unto him? What did he gain by it, if our kings retained the profits of their kingdoms to their own use? Indeed we do not find that the fee-farm of a thousand marks was ever paid, but that it is all run in arrear till this present day. For the truth is, the Court of Rome did scorn to accept so poor a revenue as a thousand marks per annum out of two kingdoms. But after the death of King John, during all the reign of Hen. 3, his son, the Pope did not claim a seignory or a rent out of England and Ireland; but did endeavour to convert all the profits of both lands to his own use, as if he had been seised of all in demesne. For whosoever will read Matt. Paris, his story of the time of King Hen. 3, will say these things spoken of before were but the beginnings of evils. For the exactions and oppressions of the Court of Rome were so continual and intolerable, as that poor monk, who lived in those times, though otherwise he adored the Pope, doth call England Balaam's ass loaden, beaten, and enforced to speak; doth call the Court of Rome Charybdis and Barathrum avaritiæ, the Pope's collectors harpies, and the Pope himself a stepfather, and the Church of Rome a stepmother. He showeth that two third parts of the

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land being then in the hands of Churchmen, the entire profits thereof were exported to enrich the Pope and the Court of Rome; which was done for the most part by these two ways and means:—First, by conferring the best ecclesiastical benefices upon Italians, and other strangers resident in that Court, whose farmers and factors in England took the profits, turned them into money, and returned the money to Rome. Secondly, by imposing continual taxes and tallages (worse than Irish cuttings), being sometimes the tenth, sometimes the fifteenth, sometimes the third, sometimes the moiety of all the goods both of the clergy and laity, under colour of maintaining the Pope's holy wars against the Emperor and Greek Church, who were then said to be in rebellion against their lady and mistress the Church of Rome. Besides, for the speedy levying and safe return of these monies, the Pope had his Lombards and other Italian bankers and usurers resident in London and other parts of the realm, who offered to lend and disburse the monies taxed, and return the same by exchange to Rome, taking such penal bonds, the form whereof is set down in Matt. Paris, and such excessive usury, as the poor religious houses were fain to sell their chalices and copes, and the rest of the clergy and laity had their backs bowed and their estates broken under the burthen. Besides, the Pope took for perquisites and casualties the goods of all clerks that died intestate, the goods of all usurers, and all goods given to charitable uses. Moreover he had a swarm

of friars (the first corruptors of religion in England), who persuaded the nobility and gentry to put on the sign of the cross, and to vow themselves to the holy wars; which they had no sooner done, but they were again persuaded to receive dispensations of their vows, and to give money for the same to the Church of Rome. I omit divers other policies then used by the Pope's collectors to exhaust the wealth of the realm, which they affirmed they might take with as good a conscience as the Hebrews took the jewels of the Egyptians. Briefly, whereas the King had scarce means to maintain his Royal family, they received out of England seventy thousand pounds sterling at least yearly, which amounteth to two hundred and ten thousand pounds sterling of the monies current at this day. Besides, they exported six thousand marks out of Ireland at one time, which the Emperor Frederick intercepted. Lastly, the King himself was so much dejected, as at a Royal feast he placed the Pope's Legate in his own chair of state, himself sitting on his right hand, and the Bishop of York on his left, non sine multorum obliquantibus oculis, saith Matt. Paris.

Thus we see the effect of the Pope's pretended jurisdiction within the dominions of the King of England. We see to what calamity and servitude it then reduced both the prince and people. Was it not, therefore, high time to meet and oppose those inconveniences? Assuredly if King Ed. I., who was the son and heir of Hen. 3, had inherited the weakness of his father, and had not resisted this usurpation and

insolency of the Court of Rome, the Pope had been proprietor of both these islands, and there had been no King of England at this day.

King Ed. I. opposeth the Pope's usurpation.

But King Ed. I. may well be styled vindex Anglicæ libertatis, the Moses that delivered his people from slavery and oppression: and as he was a brave and victorious prince, so was he the best Pater patriæ that ever reigned in England since the Norman Conquest, till the coronation of our gracious Sovereign. At the time of the death of his father he was absent in the war of the Holy Land, being a principal commander of the Christian army there, so as he returned not before the second year of his reign. But he was no sooner returned and crowned, but the first work he did was to shake off the yoke of the Bishop of Rome. For the Pope having then summoned a General Council, before he would license his bishops to repair to it, he took of them a solemn oath, that they should not receive the Pope's blessing. Again, the Pope forbids the King to war against Scotland; the King regards not his prohibition: he demands the first-fruits of ecclesiastical livings; the King forbids the payment thereof unto him. The Pope sendeth forth a general bull prohibiting the clergy to pay subsidies or tributes to temporal princes; a tenth was granted to the King in Parliament, the clergy refused to pay it; the King seized their temporalties for their contempt, and got payment notwithstanding the Pope's Bull. After this he made the statute of Mortmain, whereby he brake the Pope's chief net, which

within an age or two more would have drawn to the Church all the temporal possessions in the kingdom, &c. Again, one of the King's subjects brought a Bull of excommunication against another; the King commandeth he should be executed as a traitor, according to the ancient law. But because that law had not of long time been put in execution, the Chancellor and Treasurer kneeled before the King, and obtained grace for him, so as he was only banished out of the realm. And as he judged it treason to bring in bulls of excommunication, so he held it a high contempt against the Crown to bring in bulls of provision or briefs of citation; and accordingly the law was so declared in Parliament, 25 Ed. 1, which was the first statute made against provisors; the execution of which law, during the life of King Ed. 1, did well-nigh abolish the usurped jurisdiction of the Court of Rome, and did revive and restore again the ancient and absolute sovereignty of the King and Crown of England.

E. 2 suffereth the Pope to usurp again.

His successor, King Ed. 2, being but a weak prince, the Pope attempted to usurp upon him again; but the Peers and people withstood his usurpation. And when that unhappy King was to be deposed, amongst many articles framed against him by his enemies, this was one of the most heinous, that he had given allowance to the Pope's Bulls.

E. 3 resisteth the usurpation of the Pope.

Again, during the minority of King Ed. 3, and after that in the heat of the wars in France, the Pope sent many briefs and bulls into England; and at last

presumed so far as that he gave an Italian the title of a Cardinal in England, and withal by his Bull gave him power to bestow all ecclesiastical promotions as they should fall void from time to time: this moved the King and the nobility to write to the Pope to this effect:—"We and our ancestors have richly endowed the Church of England, and have founded abbeys and other religious houses for the instruction of our people, for maintainance of hospitality, and for the advancement of our countrymen and kinsmen. Now you provide and place strangers in our benefices that come not to keep residence thereupon; and if they come, understand not our language; and some of them are subjects to our mortal enemies; by reason whereof our people are not instructed, hospitality is not kept, our scholars are unpreferred, and the treasure of the realm is exported." The Pope returneth answer, that the Emperor had lately submitted himself to the Church of Rome in all points, and was become the Pope's great friend; and in menacing manner advised the King of England to do the like. The King replies, that if the Emperor and French King both should take his part, he was ready to give battle to both in defence of the liberties of his Crown. Hereupon the several statutes against provisors before recited were put in execution so severely as the King and his subjects enjoyed their right of patronage clearly; and their exemption of clerks took no place at all; for that the Abbot of Waltham and Bishop of Winchester were both attainted of high contempts,

and the Bishop of Ely of a capital offence, as appeareth in the records of this King's reign. Yet during the nonage of Rich. 2, they began once again to encroach upon the Crown by sending Legates and Bulls and briefs into England, whereof the people were so sensible and impatient, as that at their special prayer, this law of 16 Rich. 2 (whereupon our indictment is framed) was enacted, being more sharp and penal than all the former statutes against provisors. And yet against this King, as against Ed. 2, it was objected at the time of his deprivation, that he had allowed the Pope's Bulls to the enthralling of the Crown.

King Rich. 2.

After this, in the weak time of King Hen. 6, they made one attempt more to revive their usurped jurisdiction by this policy. The Commons had denied the King a subsidy when he stood in great want of money. The Archbishop of Canterbury and the rest of the bishops offered the King a large supply of his wants, if he would consent that all the laws against provisors, and especially this law of 16 Rich. 2, might be repealed. But Humphry, Duke of Gloucester, who had lately before cast the Pope's Bull into the fire, did likewise cause this motion to be rejected. So as by special Providence these laws have stood in force even till this day in both these kingdoms.

The evidence against Lalor.

Then the Attorney-General descended to the evidence, whereby he proved fully all the parts of the indictment. First, it was proved by Lalor's own confession, upon several examinations taken before the Lord-Deputy and Lord Chancellor, and others, that

he had accepted the office and title of Vicar-General in the dioceses of Dublin, Kildare, and Ferns, by virtue of the Pope's Bull. Secondly, it appeared by the copies of sundry letters found among his papers at his apprehension, that he styled himself the Pope's vicar, in this form, "Robertus Dublinien. et Kildaren. et Fernen. Diæces. Vicarius apostolicus." Thirdly, there were produced the copies of divers acts and instruments, written for the most part with Lalor's own hand, some of institutions of Popish priests to benefices, others of dispensations with marriage within the degrees, others of divorces, others of dispensations for non-payment of tithes. Whereby it was manifestly proved that he did execute the Pope's Bull, in usurping and exercising episcopal jurisdiction, as Vicar-General of the See Apostolic, within the dioceses before named.

To this evidence he made a three-fold answer. First, that he was no suitor for the office of Vicar-General, but it was imposed on him, and he accepted *virtute obedientiæ*, only to obey his superiors. Next, that he did exercise the office of Vicar-General *in foro conscientiæ tantum*, and not *in foro judicii*. And, lastly, that those copies of institutions, dispensations, and divorces were many of them written with his man's hand, as precedents of such acts and instruments, without his privity or direction. Hereupon Sir James Ley, Chief Justice, told him that he could not well say that he accepted that unlawful office *virtute obedientiæ*, for there was no virtue in that

obedience; that he owed an obedience to the law and to the King, who is the true superior and sovereign over all his subjects, and hath no peer within his dominions; and that the superiors whom he meant and intended were but usurpers upon the King's jurisdiction, and therefore this excuse did aggravate his contempt, in that it appeared he had vowed obedience to those who were apparent enemies to the King and his crown. And though it were manifest that he exercised jurisdiction *in foro judicii*, (for every institution is a judgment, and so is every sentence of divorce,) yet were his offence nothing diminished if he had executed his office of Vicar-General *in foro conscientiæ tantum;* for the court of man's conscience is the highest tribunal, and wherein the power of the keys is exercised in the highest degree.

Hereunto the Attorney-General took occasion to add thus much, that Lalor had committed these high offences, not only against the law, but against his own conscience, and that he was already condemned *in foro conscientiæ*. For that he upon his second examination had voluntarily acknowledged himself not to be a lawful Vicar-General, and that he thought in his conscience he could not lawfully take upon him the said office. He hath also acknowledged our Sovereign Lord King James to be his lawful, chief, and supreme governor, in all causes, as well ecclesiastical as civil; and that he is in conscience bound to obey him in all the said causes, &c., as it is contained in his acknowledgment or confession before set down, which being

showed forth by the Attorney-General, the Court caused it to be publicly read; and thereupon demanded of Lalor, if that were not his free and voluntary confession, signed with his own hand, and confirmed by his oath before the Lord-Deputy and Council. He was not a little abashed at the publishing of this acknowledgment and confession in the hearing of so many principal gentlemen, to whom he had preached a contrary doctrine; therefore, said he, "the showing forth of this confession is altogether impertinent and besides the matter." Howsoever, he could not deny but that he made it, and signed it, and swore it, as it was testified by the Lord-Deputy and the rest.

Then was it demanded of him, whether since the making of this confession he had not protested to divers of his friends, that he had not acknowledged the King's supremacy in ecclesiastical causes? His answer was, that indeed he had said to some of his friends, who visited him in the Castle of Dublin, that he had not confessed or acknowledged that the King was his supreme governor in spiritual causes, for that the truth is, in the confession there is no mention made of spiritual causes, but of ecclesiastical.

"This is a subtle evasion indeed," said the Attorney-General; "I pray you what difference do you make between ecclesiastical causes and spiritual causes?" "This question," said Lalor, "is sudden and unexpected at this time, and therefore you shall do well to take another day to dispute this point." "Nay," said the Attorney-General, "we can never speak of it in a better

time or fitter place; and therefore, though you, that bear so reverend a title, and hold the reputation of so great a clerk, require a farther time, yet shall you hear that we laymen that serve his Majesty, and by the duty of our places are to maintain the jurisdiction of the Crown, are never so unprovided but that we can say somewhat touching the nature and difference of these causes."

When the distinction of ecclesiastical and spiritual causes from civil and temporal causes began in the world.

First, then, let us see when this distinction of ecclesiastical or spiritual causes from civil and temporal causes did first begin in point of jurisdiction. Assuredly, for the space of three hundred years after Christ, this distinction was not known or heard of in the Christian world. For the causes of testaments, of matrimony, of bastardy and adultery, and the rest which are called ecclesiastical or spiritual causes, were merely civil, and determined by the rules of the civil law, and subject only to the jurisdiction of the civil magistrate, as all civilians will testify with me.

But after that the emperors had received the Christian faith, out of a zeal and desire they had to grace and honour the learned and godly bishops of that time, they were pleased to single out certain special causes wherein they granted jurisdiction unto the bishops; namely, in causes of tithes, because they were paid to men of the Church; in causes of matrimony, because marriages were for the most part solemnized in the Church: in causes testamentary, because testaments were many times made

in extremis, when Churchmen were present, giving spiritual comfort to the testator, and therefore they were thought the fittest persons to take the probates of such testaments. Howbeit these bishops did not proceed in these causes according to the canons and decrees of the Church (for the canon law was not then hatched or dreamed of), but according to the rules of the Imperial law, as the civil magistrate did proceed in other causes; neither did the emperors, in giving this jurisdiction unto them, give away their own supreme and absolute power, to correct and punish these judges as well as others, if they performed not their several duties. This then is most certain, that the primitive jurisdiction in all these causes was in the civil magistrate, and so in right it remains at this day; and though it be derived from him, it remaineth in him as in the fountain. For every Christian monarch (as well as the godly Kings of Judah) is *custos utriusque tabulæ;* and consequently hath power to punish not only treason, murder, theft, and all manner of force and fraud, but incest, adultery, usury, perjury, simony, sorcery, idolatry, blasphemy. Neither are these causes in respect of their own quality and nature to be distinguished one from another by the names of spiritual or temporal; for why is adultery a spiritual cause, rather than murder, when they are both offences alike against the second table? or idolatry rather than perjury, being both offences likewise against the first table? and indeed, if we consider the natures of these causes, it will

seem somewhat absurd that they are distinguished by the name of spiritual and temporal; for, to speak properly, that which is opposed to spiritual, should be termed carnal; and that which is opposed to temporal, should be called eternal. And therefore, if things were called by their proper names, adultery should not be called a spiritual offence, but a carnal. But shall I express plainly and briefly why these causes were first denominated, some spiritual or ecclesiastical, and others temporal and civil.

Truly, they were so called, not from the nature of the causes, as I said before, but from the quality of the persons whom the prince had made judges in those causes. The clergy did study spiritual things, and did profess to live *secundum spiritum*, and were called spiritual men; and therefore they called the causes wherein princes had given them jurisdiction, spiritual causes, after their own name and quality. But because the lay magistrates were said to intend the things of this world, which are temporal and transitory, the clergy called them secular or temporal men, and the causes wherein they were judges temporal causes. This distinction began first in the Court of Rome, where the clergy having by this jurisdiction gotten great wealth, their wealth begot pride, their pride begot ingratitude towards princes, who first gave them their jurisdiction, and then, according to the nature of all ungrateful persons, they went about to extinguish the memory of the benefit; for whereas their jurisdiction was first derived from

Cæsar, in the execution whereof they were Cæsar's judges, so as both their courts and causes ought still to have borne Cæsar's image and superscription, as belonging unto Cæsar; they blotted Cæsar's name out of the style of their Courts, and called them Courts Christian, as if the Courts holden by other magistrates had been in comparison but Courts of Ethnicks; and the causes which in their nature were merely civil, they called spiritual and ecclesiastical. So as if the emperor should challenge his Courts and causes again, and say, "Reddite Cæsari quæ sunt Cæsaris," they would all cry out on the contrary part and say, "Date Deo quæ sunt Dei:" our Courts bear the name and title of Christ, the superscription of Cæsar is quite worn out, and not to be found upon them. And this point of their policy is worth the observing, that when they found their jurisdiction in matrimonial causes to be the most sweet and gainful of all other (for of matrimony they made matter of money indeed), to the end that Cæsar might never resume so rich a perquisite of their spiritual jurisdiction, they reduced matrimony into the number of the seven sacraments; after which time it had been sacrilege, if the civil magistrate had intermeddled with the least matter that had relation to matrimony, or any dependency thereupon. So then it appeareth, that all causes whereof ecclesiastical or spiritual persons have cognizance or jurisdiction by the grants or permission of princes are called ecclesiastical or spiritual causes. And as all their Courts are called

spiritual Courts, so all causes determinable in those Courts are called spiritual causes. And therefore, where Master Lalor hath acknowledged the King's majesty to be supreme governor in all ecclesiastical causes, he hath therein acknowledged the King's supremacy in all spiritual causes, wherein he hath but rendered to Cæsar that which is Cæsar's, and hath given unto his Majesty no more than all the Bishops of England have yielded to *his* predecessors, not only in this latter age, but also in former times both before and since the conquest, as hath been before at large expressed.

Here the day being far spent, the Court demanded of the prisoner if he had any more to say for himself. His answer was, that he did willingly renounce his office of Vicar-General, and did humbly crave his Majesty's grace and pardon. And to that end, he desired the Court to move the Lord-Deputy to be favourable unto him.

Then the jury departed from the bar, and returning within half-an-hour, found the prisoner guilty of the contempts whereof he was indicted.

Whereupon the Solicitor-General moved the Court to proceed to judgment. And Sir Dominick Sarsfield, Knight, one of the justices of his Majesty's chief place, gave judgment according to the form of the statute whereupon the indictment was framed.

APPENDIX.

APPENDIX (A.)

PAPAL BULL.*

(*From the Catholic Standard.*)

The power of ruling the universal Church, committed by our Lord Jesus Christ to the Roman Pontiff,† in the person of St. Peter, Prince of the Apostles, hath preserved, through every age, in the Apostolic See, that remarkable solicitude by which it consulteth for the advantage of the Catholic religion in all parts of the world, and studiously provideth for its extension. And this correspondeth with the design of its Divine founder, who, when he ordained a head to the Church looked forward, by his excelling wisdom, to the consummation of the world. Amongst other nations, the famous realm of England hath experienced the effects of this solicitude on the part of the Supreme Pontiff. Its historians testify, that in the earliest ages of the Church, the Christian religion was brought into Britain, and subsequently flourished greatly there; but about the middle of the fifth age, the Angles and Saxons having been invited into the island, the affairs, not only of the nation, but of religion also, suffered great and grievous injury. But we know that our holy predecessor, Gregory the Great, sent

* "Letters Apostolical of our most Holy Father Pope Pius IX., Establishing the Episcopal Hierarchy in England; Pius P.P. IX., for a perpetual remembrance of the thing." London: printed and published by T. Booker, at the Metropolitan Catholic Printing-office, 9, Rupert-street, Leicester-square. And sold by all Booksellers. 1850.

† This is assumption without proof, and against probability, if not against proof. See note at end of the Bull, from Bishop Burgess' "Protestant Catechism."

first Augustine the Monk, with his companions, who subsequently, with several others, were elevated to the dignity of bishops, and a great company of priests, monks, having been sent to join them, the Anglo-Saxons were brought to embrace the Christian religion ; and by their exertions it was brought to pass, that in Britain, which had now come to be called England, the Catholic religion was everywhere restored and extended. But to pass on to more recent events, the history of the Anglican schism of the sixteenth age presents no feature more remarkable than the care unremittedly exercised by our predecessors the Roman Pontiffs to lend succour, in its hour of extremest peril, to the Catholic religion in that realm, and by every means to afford it support and assistance. Amongst other instances of this care, are the enactments and provisions made by the chief Pontiffs, or under their direction and approval, for the unfailing supply of men to take charge of the interests of Catholicity in that country ; and also for the education of Catholic young men of good abilities on the Continent, and their careful instruction in all branches of theological learning ; so that, when promoted to holy orders, they might return to their native land and labour diligently to benefit their countrymen, by the ministry of the Word and of the sacraments, and by the defence and propagation of the holy faith.

Perhaps even more conspicuous have been the exertions made by our predecessors for the purpose of restoring to the English Catholics, prelates invested with the episcopal character, when the fierce and cruel storms of persecution had deprived them of the presence and pastoral care of their own bishops. The Letters Apostolical of Pope Gregory XV., dated March 23, 1623, set forth that the chief Pontiff, as soon as he was able, had consecrated William Bishop, Bishop of Chalcedon, and had appointed him, furnished with an ample supply of faculties, and the authority of ordinary, to govern the Catholics of England and of Scotland. Subsequently, on the death of the said William Bishop, Pope Urban VIII., by Letters Apostolical, dated Feb. 4, 1625, to the like effect, and directed to Richard Smith, reconstituted him Bishop of Chalcedon, and conferred on him the same faculties and powers as had been

granted to William Bishop. When the King, James II., ascended the English throne, there seemed a prospect of happier times for the Catholic religion. Innocent XI. immediately availed himself of this opportunity to ordain, in the year 1685, John Leyburn, Bishop of Adrumetum, Vicar Apostolic of all England. Subsequently, by other Letters Apostolical, issued January 30, 1688, he associated with Leyburn, as Vicars Apostolic, three other bishops, with titles taken from churches *in partibus infidelium;* and accordingly, with the assistance of Ferdinand, Archbishop of Amaria, Apostolic Nuncio in England, the same Pontiff divided England into four districts, namely, the London, the Eastern, the Midland, and the Northern ; each of which a Vicar Apostolic commenced to govern, furnished with all suitable faculties, and with the proper powers of a local ordinary. Benedict XIV., by his Constitution, dated May 30, 1753, and the other Pontiffs, our predecessors, and our Congregation of Propaganda, both by their own authority, and by their most wise and prudent directions, afforded them all guidance and help in the discharge of their important functions. This partition of all England into four Apostolic Vicariates, lasted till the time of Gregory VI., who by Letters Apostolical, dated July 3, 1840, having taken into consideration the increase which the Catholic religion had received in that kingdom, made a new ecclesiastical division of the counties, doubling the number of the Apostolical Vicariates, and committing the government of the whole of England in spirituals to the Vicars Apostolic of the London, the Eastern, the Western, the Central, the Welsh, the Lancaster, the York, and the Northern Districts. These facts that we have cursorily touched upon, to omit all mention of others, are a sufficient proof that our predecessors have studiously endeavoured and laboured, that as far as their influence could effect it, the Church in England might be re-edified and recovered from the great calamity that had befallen her.

Having, therefore, before our eyes so illustrious an example of our predecessors, and wishing to emulate it, in accordance with the duty of the Supreme Apostolate, and also giving way to our own feelings of affection towards that beloved part of our Lord's vineyard, we have purposed, from the very first com-

mencement of our pontificate, to prosecute a work so well commenced, and to devote our closer attention to the promotion of the Church's advantage in that kingdom. Wherefore, having taken into earnest consideration the present state of Catholic affairs in England, and reflecting on the very large and everywhere increasing number of Catholics there ; considering also that the impediments which principally stood in the way of the spread of Catholicity, were daily being removed, we judged that the time had arrived when the form of ecclesiastical government in England might be brought back to that model on which it exists freely amongst other nations, where there is no special reason for their being governed by the extraordinary administration of Vicars Apostolic. We were of opinion that times and circumstances had brought it about, that it was unnecessary for the English Catholics to be any longer guided by Vicars Apostolic ; nay more, that the revolution that had taken place in things there was such as to demand the form of ordinary Episcopal government. In addition to this, the Vicars Apostolic of England themselves, had, with united voice, besought this of us ; many also both of the clergy and laity, highly esteemed for their virtue and rank, had made the same petition ; and this was also the earnest wish of a very large number of the rest of the Catholics of England. Whilst we pondered on these things, we did not omit to implore the aid of Almighty God, that in deliberating on a matter of such weight, we might be enabled both to discern, and rightly to accomplish, what might be most conducive to the good of the Church.

We also invoked the assistance of Mary the Virgin, Mother of God, and of those saints, who illustrated * England by their virtues, that they would vouchsafe to support us by their patronage with God to the happy accomplishment of this affair. In addition, we committed the whole matter to our venerable brethren the Cardinals of the holy Roman Church of our congregation for the propagation of the faith, to be carefully and gravely considered. Their opinion was entirely agreeable to

* Dr. Wiseman reckons St. Thomas-à-Becket in the number. See ante, Introduction, xvi., and see Index.

our own desires, and we freely approved of it ; and judged that it be carried into execution. The whole matter, therefore, having been carefully and deliberately consulted upon, of our own motion, on certain knowledge, and of the plenitude of our apostolical power, we constitute and decree, that in the kingdom of England, according to the common rules of the Church, there be restored the hierarchy of ordinary Bishops, who shall be named from Sees, which we constitute in these our letters, in the several districts of the Apostolic Vicariates. To begin with the London district, there will be in it two Sees ; that of Westminster, which we elevate to the degree of the metropolitan or archi-episcopal dignity, and that of Southwark, which, as also the others (to be named next), we assign as suffragan to Westminster. The diocese of Westminster will take that part of the abovenamed district which extends to the north of the river Thames, and includes the counties of Middlesex, Essex, and Hertford ; that of Southwark will contain the remaining part to the south of the river, viz., the counties of Berks, Southampton, Surrey, Sussex, and Kent, with the islands of Wight, Jersey, Guernsey, and the others adjacent.

In the northern district there will be only one Episcopal See, which will receive its name from the city of Hexham. This diocese will be bounded by the same limits as the district hath hitherto been.

The York district will also form one diocese ; and the Bishop will have his See at the city of Beverley.

In the Lancashire district there will be two Bishops; of whom the one will take his title from the See of Liverpool, and will have as his diocese the Isle of Man, the hundreds of Lonsdale, Amounderness, and West Derby. The other will receive the name of his See from the city of Salford ; and will have for his diocese the hundreds of Salford, Blackburn, and Leyland : the county of Chester, although hitherto belonging to that district, we shall now annex to another diocese.

In the district of Wales there will be two bishoprics, viz., that of Shrewsbury, and that of Menevia (or St. David's), united with Newport. The diocese of Shrewsbury to contain, northwards, the counties of Anglesey, Caernarvon, Denbigh, Flint, Merioneth, and Montgomery ; to which we annex the

county of Chester, from the Lancashire district, and the county of Salop, from the central district. We assign to the Bishop of St. David's and Newport as his diocese, northwards, the counties of Brecknock, Glamorgan, Pembroke, and Radnor, and the English counties of Monmouth and Hereford. In the western district we establish two Episcopal Sees; that of Clifton and that of Plymouth. To the former of these we assign the counties of Gloucester, Somerset, and Wilts; to the latter those of Devon, Dorset, and Cornwall.

The central district, from which we have already separated off the county of Salop, will have two Episcopal Sees; that of Nottingham and that of Birmingham. To the former of these we assign, as a diocese, the counties of Nottingham, Derby, and Leicester, together with those of Lincoln and Rutland, which we hereby separate from the eastern district. To the latter we assign the counties of Stafford, Warwick, Worcester, and Oxford.

Lastly, in the eastern district, there will be a single Bishop's See, which will take its name from the city of Northampton, and will have its diocese comprehended within the same limits as have hitherto bounded the district, with the exception of the counties of Lincoln and Rutland, which we have already assigned to the aforesaid diocese of Nottingham.

Thus, then, in the most flourishing kingdom of England,* there will be established one ecclesiastical province, consisting of one Archbishop, or metropolitan head, and twelve bishops his suffragans; by whose exertions and pastoral cares we trust God will grant to Catholicity, in that country, a fruitful and daily increasing extension. Wherefore, we now reserve to ourselves and our successors, the Pontiffs of Rome, the power of again dividing the said province into others, and of increasing the number of dioceses, as occasion shall require; and in general, that, as it shall seem fitting in the Lord, we may freely decree new limits to them.

In the meanwhile we command the aforesaid Archbishop and

* "Flourishing not in consequence of Popery, but in spite of it."—See *Macaulay's History of England.* The maxim is a true one—The Church of Rome may flourish in the country which it ruins.—See also *Dr. Croly's England the Fortress of Christianity.*

Bishops that they transmit, at due times, to our congregation of Propaganda, accounts of the state of their Churches, and that they never omit to keep the said congregation fully informed respecting all matters, which they know will conduce to the welfare of their spiritual flocks. For we shall continue to avail ourselves of the instrumentality of the said congregation in all things appertaining to the *Anglican churches. But in the sacred government of clergy and laity, and in all other things appertaining unto the pastoral office, the † Archbishop and Bishops of England will henceforward enjoy all the rights and faculties which the other Catholic Archbishops and Bishops of other nations, according to the common ordinances of the sacred canons and apostolic constitutions, use, and may use: and are equally bound by the obligations which bind the other Archbishops and Bishops according to the same common discipline of the Catholic Church. And whatever regulations either in the ancient system of the Anglican churches or in the subsequent missionary state, may have been in force either by special constitutions, or privileges, or peculiar customs, will now henceforth carry no right nor obligation: and in order that no doubt may remain on this point, we, by the plenitude of our apostolic authority, repeal and abrogate all power whatsoever of imposing obligation or conferring right in those peculiar constitutions and privileges of whatever kind they may be, and in all customs by whomsoever, or at whatever most ancient or immemorial time brought in. Hence it will for the future be solely competent for the Archbishop* and Bishops of England to distinguish what things belong to the execution of the common ecclesiastical law, and what, according to the common discipline of the Church, are entrusted to the authority of the Bishops. We, certainly, will not be wanting to assist them with our apostolic authority, and most willingly will we second all their applications in those things which shall seem to conduce to the glory of God's name and the salvation of souls. Our

* By these expressions seem to be implied the Roman Catholic Hierarchy and churches in England.

† This seems to ignore the existence of the Protestant Episcopal hierarchy, as, indeed, the entire Bull seems to ignore the existence, powers, or prerogatives of the Queen of England.

principal object, indeed, in decreeing by these our Letters Apostolic, the restoration of the ordinary hierarchy of bishops, and the observation of the Church's common law, has been to pay regard to the wellbeing and growth of the Catholic religion throughout the realm of England; but, at the same time, it was our purpose to gratify the wishes both of our venerable brethren who govern the affairs of religion by a vicarious authority from the Apostolic See, and also of very many of our well-beloved children of the Catholic clergy and laity, from whom we had received the most urgent entreaties to the like effect. The same prayer had repeatedly been made by their ancestors to our predecessors, who, indeed, had first commenced to send Vicars Apostolic into England, at a time when it was impossible for any Catholic prelate to remain there in possession of a church by right in ordinary; and hence their design in successively augmenting the number of vicariates and vicarial districts, was not certainly that Catholicity in England should always be under an extraordinary form of government, but rather looking forward to its extension in process of time, they were paving the way for the ultimate restoration of the ordinary hierarchy there.

And therefore we, to whom by God's goodness it hath been granted to complete this great work, do now hereby declare, that it is very far from our intention or design that the prelates of England,* now possessing the title and rights of bishops in ordinary, should in any other respect be deprived of any advantages which they have enjoyed heretofore under the character of Vicars Apostolic. For it would not be reasonable that the enactments we now make at the instance of the English Catholics, for the good of religion in their country, should turn to the detriment of the said Vicars Apostolic. Moreover, we are most firmly assured that the same, our beloved children in Christ, who have never ceased to contribute by their alms and liberality under such various circumstances to the support of Catholic religion and of the Vicars Apostolic, will henceforward manifest even greater liberality towards bishops who are now bound by a stronger tie to the Anglican Churches, so that these same may never be in want of the temporal means necessary for the expenses of the decent splendour of the Churches, and of Divine

* *i. e.*, the newly appointed Roman Catholic Bishops; see notes, p. 125.

service, and of the support of the clergy, and relief of the poor. In conclusion, lifting up our eyes unto the hills, from whence cometh our help, to God Almighty and All-merciful, with all prayer and supplication, we humbly beseech Him, that He would confirm, by the power of His Divine assistance, all that we have now decreed for the good of the Church, and that He would bestow the strength of His grace on those to whom the carrying out of our decrees chiefly belongs, that they may feed the Lord's flock which is amongst them, and that they may each increase in diligent exertion to advance the greater glory of His name. And in order to obtain the more abundant succours of heavenly grace for this purpose,

*We again invoke, as our intercessors with God, the most holy Mother of God, the blessed Apostles Peter and Paul, with the other heavenly patrons of England,† and especially *St. Gregory the Great*, that since it is now granted to our so unequal deserts again to restore the Episcopal sees in England, which he first effected to the very great advantage of the Church, this restoration also which we make of the Episcopal dioceses in that kingdom may happily turn to the benefit of the Catholic religion. And we decree that these our Letters Apostolical shall never at any time be objected against or impugned, on pretence either of omission or of addition, or defect either of our inten-

* "Thou art Christ, the Son of the living God." (Matt. xvi. 16.) To this truth Christ bore witness at His trial: "The high priest asked Him, "Art thou the Christ, the Son of the Blessed? And Jesus said, I am." (Mark xiv. 61.) This is the truth for which he suffered death. "The "Jews answered Pilate, We have a law, and by that law He ought to die, "because He made himself the Son of God." (John xix. 7.) This "good "confession, which Christ witnessed before Pontius Pilate" (1 Tim. vi. 13), was the constant subject of the apostles' preaching. To this truth the prophets bore witness; and upon this truth the Church of Christ was built, not on the person of St. Peter. For this our Protestant interpretation of our Saviour's promise we have the authority not only of Origen, Augustine, Chrysostom, and other ancient Fathers quoted by Casaubon in his Exercitat. xv. ad Baron., pp. 279—282, Ed. Francof., but even of two Popes—Pope Felix III. translates, "*super ista confessione* ædificabo ecclesiam meam." Pope Gregory I. says, "in Petra ecclesia, hoc est, in *B. Petri confessione*." Ep. iii. 33.—Note to Bishop Burgess' "Protestant Catechism," p. 85.

† Including Thomas-à-Becket, of Canterbury.

tion, or any other whatsoever; but shall always be valid and in force, and shall take effect in all particulars, and be inviolably observed. All general or special enactments notwithstanding, whether apostolic or issued in Synodal, Provincial, and Universal Councils notwithstanding, also all rights and privileges of the ancient sees of England, and of the Missions, and of the apostolic vicariates subsequently there established, and of all churches whatsoever and pious places, whether established by oath, or by apostolic confirmation, or by any other security whatsoever; notwithstanding, lastly, all other things to the contrary whatsoever. For all these things, in as far as they contravene the foregoing enactments, although a special mention of them may be necessary for their repeal, or some other form, however particular, necessary to be observed, we expressly annul and repeal. Moreover, we decree, that if, in any other manner, any other attempt shall be made by any person, or by any authority, knowingly or ignorantly, to set aside these enactments, such attempt shall be null and void. And it is our will and pleasure that copies of these our Letters, being printed and subscribed by the hand of a notary public, and sealed with the seal of a person high in ecclesiastical dignity, shall have the same authenticity as would belong to the expression of our will by the production of this original copy.

Given at Rome, at St. Peter's, under the seal of the fisherman, this 29th day of September, 1850, in the fifth year of our Pontificate.

A. Cardinal Lambruschini.

APPENDIX B.

DR. WISEMAN'S PASTORAL.*

Nicholas, by the Divine Mercy, of the Holy Roman Church by the Title of St. Pudentiana Cardinal Priest, Archbishop of

* By authority. "The Pastoral of His Eminence the Cardinal Archbishop of Westminster, appointed to be read in all Catholic Churches and Chapels in the Archdiocese of Westminster, and the Diocese of Southwark."

Westminster, and Administrator Apostolic of the Diocese of Southwark.*

To our Dearly Beloved in Christ, the Clergy Secular and Regular, and the Faithful of the said Archdiocese and Diocese.

HEALTH AND BENEDICTION IN THE LORD:

If this day we greet you under a new title, it is not, dearly beloved, with an altered affection. If in words we seem to divide those, who till now have formed, under our rule, a single flock, our heart is as undivided as ever, in your regard. For now truly do we feel closely bound to you by new and stronger ties of charity; now do we embrace you in our Lord Christ Jesus, with more tender emotions of paternal love; now doth our soul yearn, and our mouth is open to you;† though words must fail to express what we feel, on being once again permitted to address you. For if our parting was in sorrow, and we durst not hope that we should again face to face behold you, our beloved flock; so much the greater is now our consolation and our joy, when we find ourselves, not so much permitted, as commissioned, to return to you, by the Supreme Ruler of the Church of Christ.

But how can we for one moment indulge in selfish feelings, when through that loving Father's generous and wise counsels, the greatest of blessings has just been bestowed upon our country, by the restoration of its true Catholic hierarchical government, in communion with the See of Peter.

For on the twenty-ninth day of last month, on the Feast of the Archangel St. Michael, Prince of the Heavenly Host, His Holiness Pope Pius IX. was graciously pleased to issue his letters Apostolic, under the Fisherman's Ring, conceived in terms of great weight and dignity, wherein he substituted, for

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* The extent, authority, and magnificence of this title or preamble, contrasts very strikingly with the "mean-nothing" sort of construction the Romanists would now put upon this and the preceding document.

† 2 Cor. vi. 2.

the eight Apostolic Vicariates heretofore existing, one Archiepiscopal or Metropolitan and twelve Episcopal Sees: repealing at the same time, and annulling, all dispositions and enactments, made for England by the Holy See, with reference to its late form of ecclesiastical government.

And by a Brief dated the same day, His Holiness was further pleased to appoint us, though most unworthy, to the Archiepiscopal See of Westminster, established by the above-mentioned letters Apostolic, giving us at the same time the administration of the Episcopal See of Southwark. So that at present, and till such time as the Holy See shall think fit otherwise to provide, *we govern* and shall continue to govern the counties* of Middlesex, Hertford, and Essex, as Ordinary thereof, and those of Surrey, Sussex, Kent, Berkshire, and Hampshire, with the islands annexed, as *Administrator* with ordinary jurisdiction.

Further, we have to announce to you, dearly beloved in Christ, that, as if still further to add solemnity and honour before the Church to this noble act of Apostolic authority, and to give an additional mark of paternal benevolence towards the Catholics of England, His Holiness was pleased to raise us, in the private Consistory of Monday, the 30th of September, to the rank of Cardinal Priest of the Holy Roman Church. And on the Thursday next ensuing, being the third day of this month of October in public Consistory, he delivered to us the insignia of this dignity, the Cardinalitial Hat; assigning us afterwards for our title in the private Consistory which we attended, the Church of St. Pudentiana, in which St. Peter is groundedly believed to have enjoyed the hospitality of the noble, and partly British family of the Senator Pudens.

In that same Consistory we were enabled ourselves to ask for the Archiepiscopal Pallium, for our new See of Westminster; and this day we have been invested by the hands of the Supreme Pastor and Pontiff himself, with this badge of Metropolitan jurisdiction.

The *great*† work then is complete; what you have long

* We do not see what right the Pope's Lord Cardinal Lieutenant has to govern countries better governed without his interference.

† *Now* we are told there is really nothing great, after all, in it.

desired and prayed * for is granted. Your beloved country has received a place among the fair churches, which, normally constituted, form the splendid aggregate of Catholic Communion : Catholic England has been restored to its orbit in the ecclesiastical firmament, from which its light had long vanished, and begins now anew its course of regularly adjusted action, round the centre of unity, the source of jurisdiction, of light and of vigour. How wonderfully all this has been brought about, how clearly the hand of God has been shown in every step we have not now leisure to relate ; but we may hope soon to recount to you by word of mouth. In the meantime we will content ourselves with assuring you that, if the concordant voice of those venerable and most eminent Counsellors to whom the Holy See commits the regulation of ecclesiastical affairs in missionary countries, of the overruling of every variety of interests and designs, to the rendering of this measure almost necessary, if the earnest prayers of our holy Pontiff and his most sacred oblation of the Divine sacrifice, added to his own deep and earnest reflection, can form to the Catholic heart an earnest of heavenly direction, an assurance that the Spirit of truth, who guides the Church, has here inspired its Supreme Head, we cannot desire stronger or more consoling evidence that this most important measure is from God, has His sanction and blessing, and will consequently prosper.

Then truly is this day to us a day of joy and exaltation of spirit, the crowning day of long hopes, and the opening day of bright prospects. How must the saints of our country, whether Roman or British, Saxon or Norman, look down from their seats of bliss with beaming glance upon this new evidence of the faith and Church which led them to glory, sympathising with those who have faithfully adhered to them through centuries of ill repute, for the truth's sake, and now reap the fruit of their patience and long-suffering. And all those blessed martyrs of these later ages, who have fought the battles of the faith under such discouragement, who mourned, more than over their own fetters or their own pain, over the desolate ways of their own Sion and the departure of England's religious glory ;

* See Introduction, note to page xvi. *ante*.

oh! how must they bless God, who hath again visited His people, how take part in our joy, as they see the lamp of the temple again enkindled and rebrightening, as they behold the silver links of that chain, which has connected their country with the See of Peter in its Vicarial Government, changed into burnished gold; not stronger nor more closely knit, but more beautifully wrought and more brightly arrayed.

And in nothing will it be fairer or brighter than in this, that the glow of more fervent love will be upon it. Whatever our sincere attachment and unflinching devotion to the Holy See till now, there is a new ingredient cast into these feelings; a warmer gratitude, a tenderer affection, a profounder admiration, a boundless and endless sense of obligation, for so new, so great, so sublime a gift, will be added to past sentiments of loyalty and fidelity to the supreme See of Peter. Our venerable Pontiff has shown himself a true Shepherd, a true Father; and we cannot but express our gratitude to him in our most fervent language, in the language of prayer. For when we raise our voices, as is meet, in loud and fervent thanksgiving to the Almighty for the precious gifts bestowed upon our portion of Christ's vineyard, we will also implore every choice blessing on him who has been so signally the divine instrument in procuring it. We will pray that his rule over the Church may be prolonged to many years, for its welfare; that health and strength may be preserved to him for the discharge of his arduous duties; that light and grace may be granted to him proportioned to the sublimity of his office; and that consolations, temporal and spiritual, may be poured out upon him abundantly, in compensation for past sorrows and past ingratitude. And of these consolations may one of the most sweet to his paternal heart be the propagation of holy religion in our country, the advancement of his spiritual children there in true piety and devotion, and our ever-increasing affection and attachment to the See of St. Peter.

In order, therefore, that our thanksgiving may be made with all becoming solemnity, we hereby enjoin as follows:—

1. This our Pastoral Letter shall be publicly read in all the churches and chapels of the Archdiocese of Westminster and the Diocese of Southwark, on the Sunday after its being received.

2. On the following Sunday there shall be in every such church or chapel a Solemn Benediction of the Blessed Sacrament, at which shall be sung the *Te Deum*, with the usual versicles and prayers, with the prayer also *Fidelium Deus Pastor et Rector*, for the Pope.

3. The Collect *Pro Gratiarum Actione*, or Thanksgiving, and that for the Pope, shall be recited in the Mass of that day, and for two days following.

4. Where Benediction is never given, the *Te Deum*, with its prayers, shall be recited or sung after Mass, and the Collects above named shall be added as enjoined.

And at the same time earnestly entreating for ourselves, also, a place in your fervent prayers, We lovingly implore for you and bestow on you the blessing of Almighty God, Father, Son, and Holy Ghost. Amen.

Given out of the Flaminian Gate of Rome, this seventh day of October, in the year of our Lord MDCCCL.

(Signed)
NICHOLAS,
CARDINAL ARCHBISHOP OF WESTMINSTER.

By command of his Eminence.

FRANCIS SEARLE, *Secretary.*

APPENDIX (C.)

LORD JOHN RUSSELL'S LETTER TO THE RIGHT REV. THE BISHOP OF DURHAM.

MY DEAR LORD,—I agree with you in considering "the late aggression of the Pope upon our Protestantism" as "insolent and insidious," and I therefore feel as indignant as you can do upon the subject.

I not only promoted to the utmost of my power the claims of the Roman Catholics to all civil rights, but I thought it right, and even desirable, that the ecclesiastical system of the Roman Catholics should be the means of giving instruction to the numerous Irish immigrants in London and elsewhere, who, without such help, would have been left in heathen ignorance.

This might have been done, however, without any such innovation as that which we have now seen.

It is impossible to confound the recent measures of the Pope with the division of Scotland into dioceses by the Episcopal Church, or the arrangement of districts in England by the Wesleyan Conference.

There is an assumption of power in all the documents which have come from Rome—a pretension to supremacy over the realm of England, and a claim to sole and undivided sway, which is inconsistent with the Queen's supremacy, with the rights of our bishops and clergy, and with the spiritual independence of the nation, as asserted even in Roman Catholic times.

I confess, however, that my alarm is not equal to my indignation.

Even if it shall appear that the ministers and servants of the Pope in this country have not transgressed the law, I feel persuaded that we are strong enough to repel any outward attacks. The liberty of Protestantism has been enjoyed too long in England to allow of any successful attempt to impose a foreign yoke upon our minds and consciences. No foreign prince or potentate will be permitted to fasten his fetters upon a nation which has so long and so nobly vindicated its right to freedom of opinion,—civil, political, and religious.

Upon this subject, then, I will only say that the present state of the law shall be carefully examined, and the propriety of adopting any proceedings with reference to the recent assumptions of power deliberately considered.

There is a danger, however, which alarms me much more than any aggression of a foreign Sovereign.

Clergymen of our own Church, who have subscribed the Thirty-nine Articles, and acknowledge in explicit terms the Queen's supremacy, have been the most forward in leading their

flocks, "step by step, to the very verge of the precipice." The honour paid to saints, the claim of infallibility for the Church, the superstitious use of the sign of the cross, the muttering of the Liturgy so as to disguise the language in which it is written, the recommendation of auricular confession, and the administration of penance and absolution,—all these things are pointed out by clergymen of the Church of England as worthy of adoption, and are now openly reprehended by the Bishop of London in his Charge to the clergy of his diocese.

What, then, is the danger to be apprehended from a foreign Prince, of no great power, compared to the danger within the gates from the unworthy sons of the Church of England herself?

I have little hope that the propounders and framers of these innovations will desist from their insidious course. But I rely with confidence on the people of England, and I will not bate a jot of heart or hope so long as the glorious principles and the immortal martyrs of the Reformation shall be held in reverence by the great mass of a nation which looks with contempt on the mummeries of superstition, and with scorn at the laborious endeavours which are now making to confine the intellect and enslave the soul.

I remain, with great respect, &c.,

J. Russell.

Downing-street, Nov. 4.

APPENDIX (D.)

THE ADDRESS OF THE WESTMINSTER CLERGY* TO THE BISHOP OF LONDON.

The following Address was presented on Friday, October 25, at London House, to the Lord Bishop of London, who expressed

* See reply, *post*, p. 137.

his entire concurrence in the sentiments and language of the Memorial :—

"TO THE RIGHT REV. FATHER IN GOD, CHARLES JAMES, LORD BISHOP OF LONDON.

"May it please your Lordship :

"We, the undersigned, clergy of the city and liberties of Westminster, approach your Lordship with deep feelings of affectionate veneration for your Lordship's person and office.

"We feel ourselves constrained to resort to your Lordship for counsel, under circumstances of an unprecedented character.

"For the first time since the Reformation a Romish ecclesiastic, nominated by the Bishop of Rome, has assumed the title of Archbishop of an English City ; and the English city whose name he has usurped is that in which the sovereigns of England are crowned, the Parliaments of England sit, and the laws of England are administered—the city of Westminster.

"We have reason to believe that this step is only a preliminary one, and that, unless it be now checked, it will soon be followed by others of the same tendency; that names of other English cities or towns will be assumed as titles of Episcopal Sees by other Romish ecclesiastics ; and that a general effort will be made by the Papacy to give a complete provincial and diocesan organization to its own hierarchy in England and Wales.

"Being persuaded that, according to the fundamental principles of the universal Church, there can be but one metropolitan in a province, and one bishop in a diocese, in a country like England, where one language is spoken, we deeply deplore and solemnly protest against this unwarrantable act of religious division, by which the Church of Rome has now given fresh evidence to the world that, instead of being, as she professes to be, a centre of spiritual unity, she is the main cause of the unhappy schism that rends Christendom asunder.

"We lament also the fact, that, among British subjects, and especially among Christian ecclesiastics, any should be found to assume a title taken from a metropolitan city in the realm of England, and thus be guilty of invading Her Majesty's constitutional prerogative, which is to be the sole fountain of

honour and dispenser of titles in that realm, and so be justly chargeable with an outrage against the British Constitution, and with indignity to the British Crown.

"We, therefore, the undersigned, having been duly called according to the laws of this Church and realm, to discharge spiritual functions in that city in which the Bishop of Rome now assumes to himself pre-eminence, and over which he has set up a claim to exercise authority by nominating an Archbishop thereof; and being bound by our ordination vows to maintain peace and quietness in Church and State, and to 'banish and drive away all erroneous and strange doctrines contrary to God's Word;' and having solemnly declared our assent to the principle embodied in the Ordinal, Articles, and Canons of our Church, that 'the Queen's Majesty under God is the only supreme governor of this realm, as well in all spiritual or ecclesiastical causes as in temporal,' and that 'no foreign prince or prelate hath, or ought to have, here any power, superiority, pre-eminence, or authority, ecclesiastical or spiritual,' and that 'the Bishop of Rome hath no jurisdiction in this realm of England,' feel it our bounden duty in the present emergency to crave directions from your Lordship's wisdom and authority how we may best vindicate the rights of our Church and country, which are now assailed, and may, with the Divine blessing, avert the dangers with which we are menaced, and maintain the peace of society and the cause of unity and truth.

"That Almighty God may long vouchsafe to continue the blessing of your Lordship's life and health, to the benefit of this diocese and of the Church and country at large, is, and will be, our most hearty prayer at the throne of grace."—*From the Record, Oct.* 28, 1850.

APPENDIX (E.)

REPLY OF THE BISHOP OF LONDON TO THE MEMORIAL FROM THE WESTMINSTER CLERGY.

YESTERDAY, the Bishop of London sent the following Reply to the Memorial signed by the Canons of Westminster, and a large

body of the clergy of that city, presented to his Lordship on Friday :*—

"*Fulham, Oct.* 28, 1850.

"Rev. and dear Brethren,—The sentiments expressed in the Address which you have presented to me are in entire accordance with mine, and I am persuaded that they will be responded to by the unanimous feeling of Protestant England.

"The recent assumption of authority by the Bishop of Rome in pretending to parcel out this country into new dioceses, and to appoint archbishops and bishops to preside over them, without the consent of the Sovereign, is a schismatical act, without precedent, and one which would not be tolerated by the Government of any Roman Catholic kingdom. I trust that it will not be quietly submitted to by our own.

"Hitherto from the time of the Reformation the Pope has been contented with providing for the spiritual superintendence of his adherents in this country by the appointment of Vicars Apostolic, Bishops who took their titles as such not from any real or pretended sees in England, but from some imaginary dioceses *in partibus infidelium*. In this there was no assumption of spiritual authority over any other of the subjects of the English Crown than those of his own communion. But the appointment of Bishops to preside over new dioceses in England, constituted by a Papal brief, is virtually a denial of the legitimate authority of the British Sovereign and of the English Episcopate ; a denial also of the validity of our orders, and an assertion of spiritual jurisdiction over the whole Christian people of the realm.

"That it is regarded in this light by the Pope's adherents in this country is apparent from the language in which they felicitate themselves upon this arrogant attempt to stretch his authority beyond its proper limits. A Journal which is generally believed to express the sentiments of a large portion of them at least (not, I believe, of all) points out in the following words the difference between the Vicars Apostolic and the pretended diocesan bishops. Alluding to certain members of our Church who are accused of a leaning towards Rome, it says,—'In this act of Pope Pius IX., they have that open

* Signed by sixty-nine clergymen.

declaration for which they have been so long professing to look. Rome, said they, has never yet formally spoken against us. Her bishops, indeed, are sent here, not as having any local authority, but as pastors without flocks; Bishops of Tadmor in the desert, or of the ruins of Babylon, intruding into territories which they cannot formally claim as their own. This specious argument is once for all silenced. Rome has more than spoken; she has spoken and acted! She has again divided our land into dioceses, and has placed over each a pastor, to whom all baptized persons, without exception, within that district, are openly commanded to submit themselves in all ecclesiastical matters, under pain of damnation, and the Anglican sees, those ghosts of realities long passed away, are utterly ignored.'

"The advisers of the Pope have skilfully contrived so to shape this encroachment upon the rights and honour of the Crown and Church of England, that his nominees to imaginary dioceses will not actually offend against the letter of the law by assuming the titles which he has pretended to confer upon them; but that it is contrary to the spirit of the laws, there can be no doubt. As little doubt can there be, that it is intended as an insult to the Sovereign and the Church of this country.

"With respect to the conduct proper to be pursued by you on this occasion, it ought, in my opinion, to be temperate and charitable, but firm and uncompromising.

"You will do well to call the attention of your people to the real purport of this open assault upon our Reformed Church, and to take measures for petitioning the Legislature to carry out the principle of the statute which forbids all persons other than the persons authorized by law to assume or use the name, style, or title of any archbishop of any province, bishop of any bishopric, or dean of any deanery in England or Ireland, by extending the prohibition to any pretended diocese or deaneries in these realms.

"It is possible that such prohibitions might not have the effect of preventing the assumption of titles by the Papal bishops, when dealing with their own adherents: but it would make the assumption unlawful, and it would mark

the determination of the people of this country not to permit any foreign prelate to exercise spiritual jurisdiction over them.

"But there are other duties besides those of protesting and petitioning, the performance of which seems to be specially required of us by the present emergency. Unwilling as I am to encourage controversial preaching, I must say that we are driven to have recourse to it by this attempted usurpation of authority on the part of the Bishop of Rome, and by the activity and subtlety of his emissaries in all parts of the kingdom. We are surely called upon for a more than ordinary measure of watchfulness and diligence in fulfilling the promise which we gave when we were admitted to the priesthood, 'to banish and drive away all erroneous and strange doctrines contrary to God's Word.'

"Let us be careful, as well in our public ministrations as in our private monitions and exhortations, to refrain from doing or saying anything which may seem to indicate a wish to make the slightest approach to a Church which, far from manifesting a desire to lay aside any of the errors and superstitions which compelled us to separate from it, is now reasserting them with a degree of boldness unknown since the Reformation, is adding new *credenda* to its Articles of Faith, and is undisguisedly teaching its members the duty of worshipping the creature with the worship due only to the Creator.

"After all, I am much inclined to believe that in having recourse to the extreme measure which has called forth your Address, the Court of Rome has been ill advised as regards the extension of its influence in this country, and that it has taken a false step. That step will, I am convinced, tend to strengthen the Protestant feeling of the people at large, and will cause some persons to hesitate and draw back who are disposed to make concessions to Rome, under a mistaken impression that she has abated somewhat of her ancient pretensions, and that a union of the two Churches might possibly be effected without the sacrifice of any fundamental principle. Hardly anything could more effectually dispel that illusion than the recent proceeding of the Roman Pontiff. He virtually condemns and ex-

communicates the whole English Church, Sovereign, bishops, clergy, and laity, and shuts the door against every scheme of comprehension save that which should take for its basis an entire and unconditional submission to the spiritual authority of the Bishop of Rome.

"That it may please the Divine Head of the Church, who is the true centre of unity and the only infallible Judge, to guide and strengthen us in these days of rebuke and trial, to open our eyes to the dangers we are in by our unhappy divisions, and to unite us in one holy bond of truth and peace, of faith and charity, is the earnest prayer,

"Reverend and dear Brethren, of
"Your affectionate Friend and Bishop,
"C. J. LONDON.

"*To the Rev. the Clergy of the City and Liberties of Westminster.*"

—*From the Times, Oct.* 29, 1850.

APPENDIX (F.)

PAPAL USURPATION.

AT a Meeting of the members and friends of the Protestant Association, held in St. Martin's Hall, Long-acre, Monday, November 25, 1850, the following Resolutions were unanimously adopted:—

1. That the recent attack upon British Protestantism by the Bishop of Rome is a daring interference with the rights of the British Crown, and calculated to be highly prejudicial to the interests of true religion, the supremacy of the Queen, the in-

dependence of the Empire, the peace of the country, and the liberty of the subject.

2. That it is the bounden duty of all true and loyal Protestant subjects to rally round the standard of Protestantism :—to protest against and to resist the encroachments of Popery, whether in matters civil or ecclesiastical ;—to assure Her Majesty of their fidelity and attachment to her throne and person, and to use their utmost endeavours that such laws may be enacted or enforced as may, under the blessing of God, protect the religion, the Throne, the Government, and the people of this country from the usurpation and tyranny of Rome.

3. That the following Petition to the Queen be adopted, and that the Right Hon. Lord Feversham be requested as one of the Vice-Presidents of this Society, to present the same to Her Majesty :—

" *To the Queen's Most Excellent Majesty.*

" The Petition of the undersigned, &c.—

" HUMBLY SHEWETH—

" That your Petitioners, in approaching the footstool of your throne as your Majesty's most dutiful and loyal subjects, humbly beg leave to express their unshaken fidelity and attachment to your Majesty's Royal person and family ; their firm adherence to those Protestant principles which placed the illustrious ancestors of your Majesty upon the throne of these realms, and their full confidence that your Majesty will never sanction any departure from those principles, nor suffer the Crown, the Church, the liberties or independence of this country, to be subjugated to any foreign influence or control.

" That your Petitioners have heard with feelings of astonishment, indignation, and regret, of the recent efforts made by the Bishop of Rome to establish his authority within your Majesty's dominions, by converting England into one ecclesiastical province of the Church or See of Rome, by dividing the country into Romish dioceses, and by appointing Romish Bishops with territorial titles in England.

" That your Petitioners believe such an act to be unprecedented, either in this, or in any other country of Europe ; and

one which ought to be stedfastly resisted, as a daring attack upon the just rights of the British Crown ; of the independence of the Church of England, and the liberties of your Majesty's faithful and loyal subjects.

" Your Petitioners, therefore, feel it to be their bounden duty—to Almighty God, to your Majesty, to their Church, and to their country, to express not only their deep sorrow, that there should have been anything in the theological, or the political state of England, which could be construed as encouraging or inviting such a stretch of power on the part of the Pope, but also to implore your Majesty to take such steps as your Majesty's wisdom may deem most advisable for the enforcing or enacting of such laws as may be necessary for the protection of your Majesty's dominions and subjects against the interference of any foreign Court or Church, more especially that of the Pope or Bishop of Rome.

" Your Petitioners beg leave also to assure your Majesty, that it will be their continued prayer and persevering effort, as they value the principles of loyalty, of nationality, and of religion, that the honour and independence of the British Crown, the British Church, and the British Constitution, may be preserved inviolate, and transmitted unimpaired to posterity.

" And your Petitioners," &c.

APPENDIX (G.)

ROMISH ENCROACHMENTS.

THE ROMAN CATHOLIC RELIEF ACT OF 1829, ETC.

THE following Report * was not originally intended for publication. It was drawn up for the use of the General Committee; but the many and important points on which it touches, will make it a matter of interest to Protestants in general.

"REPORT OF THE SUB-COMMITTEE TO THE GENERAL COMMITTEE OF THE PROTESTANT ASSOCIATION.

"The Sub-Committee appointed by minute of 12th of October, to consider the letters then referred to them, and also the 10th Geo. IV., c. 7,—'An Act for the relief of his Majesty's Roman Catholic subjects,' and to report as to any violations of the provisions of the said Act, and on the position of Popery and Protestantism, preparatory to an address to the Protestants of the United Kingdom, have to report as follows:—

"I. With reference to the 10th Geo. IV., c. 7, commonly called the Roman Catholic Emancipation Act, they find that provisions on the various points hereinafter enumerated, are, amongst others, contained in the said Act.

"The objects of that Act appear to have been twofold.

"1. To confer benefits on the Roman Catholics, by removing certain civil disabilities.

"2. To secure Protestants against Romish aggressions, and the evils which they apprehended might result from such concessions.

"The first of these objects has been accomplished. A few instances from many more which might be enumerated, may be mentioned in illustration.

"Roman Catholic Peers sit in the House of Lords.

"Roman Catholic laymen sit in the House of Commons.

"Roman Catholics sit at the Privy Council Board.

"A Roman Catholic is Master of the Mint.

"A Roman Catholic is Governor of Malta.

"A Roman Catholic is Master of the Horse.

"A Roman Catholic is Under-Secretary in Ireland.

"A Roman Catholic is Attorney-General there.†

* Dated November 23, 1849.

† It is to be remembered also, that a Roman Catholic is Vice-Chamberlain of the Queen's Household, in England: a Roman Catholic, also, is Chief Baron of the Court of Exchequer, in Ireland.

"Roman Catholics also hold various judicial and other offices of importance in this country, in Ireland, and the Colonies.*

"The second object contemplated by the Act, viz., the protection of Protestant interests, was but inefficiently attempted, and has been very inadequately accomplished.

"This was from no want of avowed intention on the part of those by whom that measure was passed into a law, to provide ample security. For, to effect it, special provisions were enacted, and to secure their performance, penalties were attached.

"Most of these provisions, however, have, in the opinion of your Sub-Committee, been violated or evaded. It is now, therefore, proposed to ascertain what those evasions or violations have been, and how far the protective provisions of the Act of Parliament under consideration may be put in force, so as to prevent a like infringement of those provisions in future; and give to the Protestant Institutions of our country that *real* protection, which at present they only *nominally* enjoy.

"Your Sub-Committee would, therefore, draw attention to the following points:—

"I. What were those provisions?

"II. What are the penalties?

"III. What is the mode of proceeding?

"IV. What have been the infringements?

"I. The provisions intended to be protective of the Protestant Institutions in Church and State, are contained in various sections, and were to the effect following, viz.:—

"1. Requiring the oath prescribed by the Act to be taken by Roman Catholic Members of Parliament, and electors, and persons holding military and naval offices, and places of trust and profit under the Crown, and also by Members of Lay Corporations, in lieu of the former oaths of allegiance, supremacy, and abjuration, and the declaration against Transubstantiation, Invocation of Saints, and the sacrifice of the Mass; see sections 2, 5, 8, 10, and 14. The concluding portion of that oath is as follows:—'I do swear that I will defend to the utmost of my power the settlement of property within this realm, as established by the laws; and I do hereby disclaim, disavow, and solemnly abjure any intention to subvert the present Church Establishment, as settled by law within this realm; and I do solemnly swear that I never will exercise any privilege to which I am, or may become entitled, to disturb or weaken the Protestant religion or

* It is rumoured that a Roman Catholic Peer is to be appointed to the important office of Chairman of Committees of the House of Lords. 1849.

Protestant Government in the United Kingdom: and I do solemnly, in the presence of God, profess, testify, and declare, that I do make this declaration, and every part thereof, in the plain and ordinary sense of the words of this oath, without any evasion, equivocation, or mental reservation whatsoever:' section 2.

"2. Forbidding Roman Catholic priests to sit in the House of Commons: section 9.

"3. Withholding certain civil and ecclesiastical offices: sections 12, 16.

"4. Forbidding interference with Church patronage and ecclesiastical appointments: sections 15, 18.

"5. Forbidding the assumption by Roman Catholics of the name, style, or title of Archbishop of any Province, Bishop of any Bishopric, or Dean of any Deanery: section 24.

"6. Prohibiting, also, judicial and other officers from attending other places of public worship, than those of the Established Churches in England, Ireland, and Scotland, with the robes or insignia of their office, and imposing penalties on Roman Catholic ecclesiastics, for officiating or wearing the habit of their order, except in their usual places of worship: sections 25, 26.

"7. Providing for the 'gradual suppression, and final prohibition' of Jesuits, and members of other religious orders, bound by monastic or religious vows, and prescribing *terms on which*, during the mean time, they might be *suffered to reside in the United Kingdom:* sections 28, 29, 30, 31, 32, 33, 34, 35, 36.

"By sect. 37: Religious orders, consisting of *females*, are exempted from the above regulations. But it would appear to your Committee that such establishments should be open to the inspection of visiting justices, as other places of confinement are, in order to prevent the young from being improperly entrapped, or detained against their own or their parents' wishes.

"II. The various penalties prescribed by the Act for infringing its provisions are:—Fine. Imprisonment. Forfeiture of office. Disability to hold any civil or military office under the Crown. Banishment. Transportation for Life.—(See schedule attached, in subsequent column.)

"III. The mode of proceeding is in some cases, before the Queen in Council, or by indictment, or information in the name of Her Majesty's Attorney-General, &c. Sect. 38.

"IV. The infringements have been numerous, some of them well known, viz.:—

"1. Violation of the spirit, if not of the letter of the oath by

Roman Catholic Members of Parliament, in voting for one Bill which diminished the number of Irish bishops by ten, and another which took off twenty-five per cent. of the incomes of the Irish clergy.

" 2. The assumption of the name, style, and title of Archbishop, &c., &c., contrary to provision of sect. 24, as in the case of Dr. M'Hale, who usurped the title of Archbishop of Tuam, while the Protestant Archbishop was living, and of Dr. Murray, now styled Roman Catholic Archbishop of Dublin.

" 3. Attending with robes and insignia of office, against the provisions of sect. 25. This was frequently done by the late Mr. O'Connell as Lord Mayor of Dublin. It has too been done by others in England.

" 4. Officiating or wearing the habits of their orders out of usual places of public worship. This also has been repeatedly done.

" 5. Increase in number of Jesuits, and members of other monastic institutions. This is a matter of boast amongst Roman Catholics, and their own Directory gives a list of the institutions.

" It is therefore suggested that, with other steps to be taken, it might be desirable to move for a return from Her Majesty's principal Secretaries of State, and from the Secretary of the Lord-Lieutenant of Ireland, of all copies of notices delivered to the Clerks of the Peace of counties, by Jesuits, or Members of other religious orders of the Church of Rome, pursuant to provisions of sections 28 and 30, containing the particulars required to be set forth in conformity with the Schedule thereby prescribed.

" And to ask also in the House of Commons,—Have there been laid before Parliament any accounts of licenses granted by any one of Her Majesty's principal Secretaries of State, to Jesuits, or Members of other religious orders of the Church of Rome, to come into the United Kingdom for the limited period prescribed by sect. 32; and whether any such licenses have been granted? And if any have been granted, to move that an account of them be laid before Parliament.

" The following tabular statement may assist in referring to the provisions of the Act, and the violations of them :—

SCHEDULE.

ANALYSIS OF PROVISIONS CONTAINED IN 10 GEO. IV. c. 7.

The Provisions.	Penalties.	Mode of Proceeding.	Infringements.
Requiring an oath to be taken, in lieu of the Oath of Allegiance, Supremacy, and abjuration, and the declaration against Transubstantiation, Invocation of Saints, and the Sacrifice of the Mass. ss. 2, 5, 8, 10.	Roman Catholic Members of Parliament liable to same penalties as other Members of Parliament voting without taking oath required by law. Entering on office without taking oath, 200*l.*, fines and forfeiture of office. ss. 4, 21.	By information in name of Her Majesty's Attorney-General. s. 38.	Terms of oath departed from in cases of tithe, bishoprics, appropriation, Church-rates, &c.

The Provisions.	Penalties.	Mode of Proceeding.	Infringements.
Excluding Roman Catholic Priests from House of Commons. s. 9.	The same as enacted by 41 G. 3.		
Withholding certain Civil and Ecclesiastical offices, ss. 12, 16.			
Forbidding interference with Church Patronage, and Ecclesiastical Appointments. ss. 15, 18.	Disability to hold any office under the Crown. s. 18.	Indictment	
Forbidding the Assumption by Roman Catholics of the *name*, style, or title of Archbishop of any Province, Bishop of any Bishopric, or Dean of any Deanery. s. 24.	Forfeiture for each offence, 100*l.* s. 24.	Information in name of Her Majesty's Attorney-General. s. 38.	Dr. M'Hale and Dr. Murray.
Prohibiting judicial, and other officers, from attending other places of public worship than those of the Established Churches in England, Ireland, and Scotland, with the Robes or Insignia of their office. Imposing Penalties on Roman Catholic Ecclesiastics for officiating, or wearing the habit of their order except in their usual places of worship. ss. 25, 26.	100*l.*	Information. s. 38.	Case of the late High Sheriff of York. Late Mr. O'Connell, &c., &c.
	50*l.*		Rainhill Procession. The Consecration at Cheadle. Opening the Romish Cathedral at St. George's-in-the-fields, &c., &c.
Providing for the gradual Suppression, and final Prohibition of Jesuits, and members of other Religious Orders, bound by Monastic or Religious vows,—and prescribing terms on which, during the mean time, they might be suffered to reside in the United Kingdom. ss. 28, 29, 30, 31, 32, 33, 34, 35, 36.	50*l.* a month for not delivering notice within six months after passing of this Act. s. 28.	Information and Indictment	Stoneyhurst. Clongowes Wood. St. Mary Blairs.
	Banishment for life, for coming into the Realm. ss. 29—31.		
	Natural-born subjects, not being registered, 50*l.* a month. s. 30.		Monasteries in midland district, and elsewhere.
Admitting persons as members of such religious orders.	Fine and imprisonment. s. 33.		

"But over and above such violations and evasions by Roman Catholics, is to be considered the policy and conduct of different Administrations, and Government officials, during the last few years.

"Passing on, therefore, from the Act of 1829, your Sub-Committee now come to consider the other points referred to in the minute; viz., the aspect and position of Popery and Protestantism.

"Rome was not slow in making use of the advantage given her by the Act of 1829. She increased enormously in power, she amplified her machinery, as the following statistics will show, and has erected for the subversion of our Protestant faith and liberties, many institutions, contrary to the provisions of the Act of 1829.

"In 1792, there were not thirty Roman Catholic chapels in Great

Britain, nor was there one Roman Catholic College; but the lapse of a few years has made a great alteration.

"Attention is specially invited to the following statistics as to Popery, from the 'Catholic Directory' for 1849.

"In Great Britain* there are:—

"Chapels, inclusive of seven building	674
"Priests	880
"Monasteries	13
"Convents	41
"Colleges	11
"Schools in England and Wales	250
"Stations where worship is performed	22
"Bishops and Vicars Apostolic	15
"Bishops and Vicars Apostolic in Colonies	38

"Thus it would appear, that the Church of Rome has planted amongst us a more powerful agency for the perversion of this empire to Popery, than the Church of England has in operation throughout the whole world for the conversion of the heathen!!

"Yet it was not by her own activity alone, that such increase was effected. There were many favouring causes. During the last twenty years, various political and theological movements have taken place, by no means creditable to a Protestant Church and people, and tending to advance the cause of Rome.

"Divines of the Church of England have advocated her claims, defended her doctrines, and joined her communion.

"Statesmen, vieing with each other for power, place, or popularity, have supplanted or outbid each other to gain her favour, till at length the Protestants of the British Empire see they must judge and act for themselves, and refuse any confidence to men whose policy would augment the evils of the country by augmenting the influence of Popery in the Legislature, or administration of the affairs of the Empire.

"To govern England through Ireland, and Ireland through Rome, seems the darling object of some, to whatever humiliating resources or alternatives it may reduce them.

"On the occasion of Her Majesty's late visit to Ireland, as reported

* This does not include Ireland, where the Pope has twenty-seven Archbishops and Bishops, and 3,000 priests, most of whom have been educated by grants from a Protestant Parliament, nor his numerous agents in our Colonial and tributary dependencies, and other parts of the world, who track the footsteps of our missionaries with unabating industry and zeal.

in the papers, Dr. Murray, a nominee of the Bishop of Rome, was officially recognised by the Queen's Lord-Lieutenant as Roman Catholic Archbishop of Dublin, precedence was given him over the nobility, including the Duke of Leinster, and Her Majesty's Ministers, though the assumption of such territorial title is expressly forbidden by the 24th sect. of 10 Geo. IV. c. 7.

"Indeed, Roman Catholics have long been uniformly favoured. The misery thereby engendered in Ireland has been great,—the cost to England unprecedented.

"From 1829 to this day, scarcely a session has passed in which some important measure has not been enacted, or attempted, in favour of Popery,—removing disabilities, giving increased political power, augmenting her endowments, or inflicting heavy blows and serious discouragements on Protestantism.

"Amongst them, may be mentioned those, the effect of which was:—

"To diminish by ten the number of Archbishops and Bishops.

"To diminish the incomes of the Irish clergy.

"To transfer power in most of the Corporations from the hands of Protestants to Roman Catholics.

"To enable Roman Catholics to bequeath land for charitable or superstitious purposes.

"To tax the revenues of the country with nearly 100,000*l.* a year for a system of education against which nearly three-fourths of the Protestant clergy in Ireland protest.*

"Further must be mentioned:—

"The endowment of Maynooth College with nearly 30,000*l.* a year.

"The erection of the three new Colleges in Ireland.

"The Act for establishing Diplomatic Relations with Rome.

"The result of these measures has been, augmented difficulty and embarrassment in administering the affairs of Ireland, increased crime, increased poverty, increased turbulence and insurrection; kept down at a heavy charge for constabulary and military.

"England has, moreover, had to pay heavily for suffering Popery to be endowed in Ireland, and for training the public mind upon principles adverse to the stability of her own Government and Institutions.

"How many Administrations has not Popery overthrown? Has it not been the stumbling-block of each successive Government!

"In 1806, the Liberal Administration of 'all the Talents' came into office, pledged to a pro-Popery policy.

"In 1807, 'all the Talents' went out of office.

* The grant to the Kildare Place Society had before been withdrawn.

"The pro-Popery policy of Mr. Canning kept him out of office for years.

"In 1829, the once powerful Administration of the Duke of Wellington and Sir R. Peel departed from the Protestant policy hitherto pursued, broke in upon the Constitution of 1688, and in 1830 it was driven from power.

"In 1834, the Liberal Government of Lord Melbourne, having inflicted heavy blows and severe discouragements upon Protestantism, was compelled to resign, and in December, 1834, was succeeded by Sir Robert Peel, who again came into power. Sir Robert Peel declared Ireland to be his chief difficulty. The Roman Catholics at once made it so;—and in April, 1835, Sir R. Peel was again out of office, and succeeded by Lord Melbourne.

"The Roman Catholics made boast of this. 'How glorious,' exclaimed one of their leaders, 'that we put the Tories out of office by a Resolution on the Irish Church and the great principle of the secular appropriation of Church property!'

"In 1841, Sir Robert Peel came again into office.

"In 1845, in defiance of the wishes of many of his own party, and the remonstrances of more than one million and a quarter of Protestants, he passed, with the help of his opponents, the Act for permanently and largely endowing Maynooth College.

"In 1846, he was again out of office, and Lord John Russell came into power.

"From that time to this, the present Administration has existed more by the weakness or toleration of divided opponents, than by its own internal union and strength. It has, however, exhibited throughout a disposition—a determination to exalt Popery at the expense of Protestantism.

"The above brief recapitulation shows that neither the Liberal nor the Conservative party have permanently gained; any more than England or Ireland has been benefited; but that Romanism throughout has advanced steadily onward to gain her point—supremacy.

"The recent proceedings in the affair at Dolly's Brae are illustrative of this; and even if it might have been thought more judicious to have discountenanced altogether the procession of men, as loyal as they were brave, yet to have made Lord Roden suffer for an act over which he had little or no control, and to dismiss him from the magistracy;—contrasts so strikingly with the leniency shown to Romish agitation, that it must be regarded as a proof of the strong but secret influence of Popery over those who administer the affairs of Ireland; and tend to convince the public mind of this country, that where

Popish intrigue or power can be availably exercised to elevate Popery—there the spirit of the British Constitution—the letter of the law—exalted rank, or years devoted to the public service, will all be disregarded.

"The proceedings in and out of Parliament since the last general election indicate a rising spirit of intelligence both amongst electors and their representatives upon the Protestant question, and a determination no longer to be hoodwinked as to the real nature, designs, and tendency of Popery.

"Communications continually received from Ireland point out the diminished hold which the priesthood have upon the people of that country; the importance of providing protection for Protestants and Roman Catholics in exercising their civil rights,—in reading the Scriptures, and continuing or becoming members of the Church which takes the Bible alone for its rule of faith.

"And while many Protestant Societies are labouring for the evangelization of Ireland—it seems the bounden duty of others carefully to provide that no political movements take place which may tend to disseminate the corruptions of Popery, to increase her influence, or rivet the chains of superstition upon the Roman Catholics of Ireland, of England, or of the Colonies.

"As another encouraging fact, the Sub-Committee desire to conclude their Report by appending a tabular statement compiled from Mr. Dod's 'Parliamentary Companion for 1849.'

"On referring to that work they find the following places enumerated by him in which the question of the endowment of Popery was put prominently forward, and the candidate elected to serve as Member had expressed himself in the negative upon the subject.

"Many more might have been found—some of whom are so well known as opposers of Popery that their opposition to any endowment of it was taken for granted—such as Lord Ashley, Sir Robert Inglis, Mr. Plumptre, Mr. Beresford, Mr. G. A. Hamilton, Mr. J. H. Hamilton, the Hon. C. E. Law, Mr. Napier, Mr. Newdegate, Sir Wm. Verner, &c., &c.

SCHEDULE.

Name of Member.	Constituency.	Party.	Declaration.
Abdy, T. N.	Lyme Regis	Lib.	Opposed to the endowment of the R. C. clergy.
Adair, R. A. S...	Cambridge Bor. .	Lib.	Opposed to the endowment of the R. C. clergy, &c., &c.
Alford, Viscount	Bedfordshire....	Con.	Ditto.
Anderson, A.....	Orkney and Shetland.....	Lib.	Opposed to the application of State funds to religious endowments.
Bagshaw, J.	Harwich.....	Lib.	Opposed to the endowment of the R. C. clergy.
Bailey, J.	Brecknockshire ..	Con.	Ditto.
Baines, M. T. ..	Hull	Lib.	Ditto.
Baldock, E. H...	Shrewsbury	Con.	Ditto.

Name of Member.	Constituency.	Party.	Declaration.
Baring, Thos. ..	Huntingdon	Con.	Opposed to the endowment of the R. C. clergy.
Benbow, John ..	Dudley	Con.	Ditto.
Berkeley, C.L.G.	Cheltenham	Lib.	Ditto.
Boyle, Hon. R.E.	Frome.....	Lib.	Opposed to any fresh endowments of any Church from the public funds.
Brackley, Visct.	Staffordshire, N.	Con.	Opposed to endowment of the R. C. clergy.
Bremridge, R. ..	Barnstaple.....	Con.	Ditto.
Brooke, Lord ..	Warwick, S.	Con.	Opposed to endowment of R. C. Church.
Buck, W. L.	Devon, N.....	Con.	Opposed to endowment of R. C. clergy.
Buller, Sir J. B. Y., Bart.	Devon, S.	Con.	Ditto.
Bunbury, E. H..	Bury St. Edmnd's	Lib.	Ditto.
Burghley, Lord .	Lincolnshire, S.	Con.	Ditto.
Cabbell, B. B. ..	Boston		Opposed the grant to Maynooth.
Campbell, Hon. W. F.	Cambridge Bor..	Lib.	Opposed to endowment of R. C. clergy.
Chandos, Marquis of	Buckingham Bor.	Con.	Will endeavour to preserve unimpaired the Protestant religion.
Charteris, Hon. F. W.	Haddingtonshire	Con.	Opposed to endowment of R. C. clergy.
Chichester, Lord J. L.	Belfast	Con.	Will vote for repeal of grant to Maynooth College.
Cholmeley, Sir M. J.	Lincolnshire, N.	Lib.	Opposed to any grant to the R. Catholics.
Christopher, R.A.	Lincolnshire, N.	Con.	Opposed to endowment of R. C. clergy.
Clay, J.	Hull	Lib.	Ditto.
Clive, H. B.	Ludlow	Con.	Ditto.
Cobbold, J. C. ..	Ipswich	Con.	Ditto, and all further concessions to that Church.
Coles, H. B.	Andover.....	Prot.	Opposed to endowment of R. C. clergy.
Colvile, C. R. ..	Derbyshire, S...	Con.	Ditto.
Compton, H. C.	Hants, S.	Con.	Ditto.
Courtenay, Visct.	Devonshire, S...	Con.	Will support the Ch. in Ireland, but is willing to endow the R. C. clergy out of Irish land.
Cowan, C.	Edinburgh.....	Lib	Opposed to endowment of R. C. clergy.
Davie, Sir H.R.F.	Haddington	Lib.	Opposed to all further religious endowments.
Denison, E. B...	Yorkshire, W.R	Con.	Opposed to endowment of R. C. clergy
Dod, J. W.	Salop, N.	Con.	Will resist further concessions to the Church of Rome.
Drumlanrig, Vis.	Dumfriesshire ..	Con.	Opposed to endowment of R. C. clergy.
Duckworth, Sir J. T. B.	Exeter		Adverse to all further concessions to the R. Catholics.
Duncombe, Hon. O.	Yorkshire, N. R.	Con.	Opposed to endowment of R. C. Church.
Dundas, George	Linlithgowshire	Con.	Adverse to all endowments of religious creeds which are opposed to the Established Church.
Dupré, C. G.....	Buckinghamshire	Con.	Opposed to endowment of R. C. clergy.
Ebrington, Visct.	Plymouth	Lib.	Ditto.
Edwards, H.	Halifax	Con.	Ditto.
Ellis, John	Leicester	Lib.	Ditto.
Euston, Earl of..	Thetford	Lib.	Ditto.
Farrer, J.	Turham, S.	Con.	Ditto.
Fergus, John ..	Fifeshire	Lib.	Ditto.
Filmer, Sir E., Bart.	Kent, W.	Con.	Ditto.
Fordyce, A. D...	Aberdeen	Lib.	Opposed to any further religious endowments.
Fox, R. M.....	Longford	Lib.	Opposed to endowment of R. C. clergy.
Fox, W. J.....	Oldham	Lib.	Opposed to all religious endowments.
Freestun, W. L.	Weymouth	Lib.	In favour of either the endowment of all religious bodies or of none.
Frewen, C. H. ..	Sussex, E.....	Con.	Opposed to any further concession to R. C. Church.
Galway, Visct...	Retford, E.	Con.	Opposed to endowment of R. C. clergy.
Glyn, G. C.....	Kendall	Lib.	Ditto.
Goddard, A. L...	Cricklade	Con.	Ditto.
Gooch, E. S.....	Suffolk, E.....	Con.	Ditto.
Greenall, G.....	Warrington	Con.	Ditto.
Gwyn, H.	Penryn and Falmouth.....	Con.	Opposed to any further concessions to R. C. Church.
Hanmer, Sir J...	Flint	Con.	Opposed to endowment of R. C. Church.
Hardcastle, J. A.	Colchester.....	Lib.	Opposed to all religious endowments out of the funds of the State.
Hastie, A.	Glasgow.....	Lib.	Opposed to endowment of R. C. clergy.
Heald, J.	Stockport	Con.	Ditto.
Henry, A.	Lancashire, S. ..	Lib.	Opposed to grants of money for religious endowments.
Heyworth, L. ..	Derby.....	Lib.	Opposed to endowment of R. C. clergy.
Hildyard, R. C..	Whitehaven . ..	Con.	Ditto.
Hildyard, T.B.T.	Nottinghamsh.S.	Con.	Ditto.
Hodges, T. L. ..	Kent, W.	Lib.	Ditto.

Name of Member.	Constituency.	Party.	Declaration.
Hodgson, W. N.	Carlisle	Con.	Opposed to endowment of R. C. clergy.
Hood, Sir A....	SomersetshireW.	Con.	Ditto.
Hughes, W. B...	Carnarvon	Lib.	Ditto.
Jackson, W.	Newcastle-under Lyme	Lib.	Strongly opposed to any further endowment of R. C. clergy.
King, Hon. P. J. L.	Surrey, E.	Lib.	Opposed to all religious endowments by the State.
Lacy, H. C.	Bodmin	Lib.	Opposed to endowment of R. C. clergy.
Lennox, Lord H.	Chichester	..	Ditto.
Lewis, Rt. Hon. Sir T. F.	Radnor	Lib.	Opposed to any further religious endowments.
Loch, J.....	Wick	Lib.	Opposed to all religious endowments.
Lowther, H.....	Cumberland, W.	Con.	Opposed to endowment of R. C. clergy.
Lowther, Hon. H. C.	Westmoreland ..	Con.	Ditto.
Lushington, C..	Westminster....	Lib.	Opposed to all religious endowments.
Mandeville, Vis.	Bewdley.....	Con.	Opposed to any endowment of R. C. clergy.
Manners, Ld. G. J.	Cambridgeshire	Con.	Ditto.
March, Earl of..	Sussex, W.....	..	Ditto.
Masterman, J...	London	..	Is prepared to resist any further concessions to Popery.
Matheson, A. ..	Inverness	..	Opposed to all further religious endowments.
Maunsell Col. P. T	Northamptns. N.	Con.	Opposed to endowment of R. C. clergy.
Meux, Sir H....	Hertfordshire ..	Con.	Opposed to further concessions to R. C. Church.
Moody, C. A....	SomersetshireW.	Prot.	Opposed to endowment of R. C. clergy.
Mowatt, F.	Penryn and Falmouth.....	Lib.	Ditto.
Mullings, J. R...	Cirencester	Con.	Ditto.
Mundy, E. M.*..	Derbyshire, S. ..	Con.	Ditto.
Noel, Hon. G. ..	Rutlandshire ...	Prot.	Ditto.
Ossulston, Lord	Northumb. N. ..	Con.	Ditto.
Paget, Lord C. E.	Sandwich	Lib.	Ditto.
Palmer, R.	Plymouth	Con.	Ditto.
Pattison, J. †....	London	Lib.	Opposed to all religious endowments.
Pearson, C.	Lambeth.....	Lib.	Ditto.
Pigott, F.	Reading	Lib.	Opposed to endowment of R. C. clergy.
Pilkington, J. ..	Blackburn	Lib.	Opposed to all religious endowments.
Plowden, W. H. C.	Newport, Isle of Wight.....	Con.	Will oppose all concessions to R. C. clergy.
Prime, R.	Sussex, W.....	Prot.	Opposed to endowment of R. C. clergy.
Pugh, David....	Montgomery	Lib.	Ditto.
Rendlesham, Ld.	Suffolk, E.....	Con.	Ditto.
Robartes, T. J. A.	Cornwall, E.	Lib.	Ditto.
Rolleston, L.....	Nottingham, S...	Con.	Ditto.
Rufford, F.	Worcester	Con.	Opposed to endowment of R. C. clergy.
Rushout, G.	Worcestersh. E.	Con.	Ditto.
Salwey, H.	Ludlow	Lib.	Opposed to all religious endowments.
Sandars, G. ...,	Wakefield	Con.	Opposed to endowment of R. C. clergy.
Scholefield, Wm.	Birmingham	Rad.	Ditto.
Seaham, Visct...	Durham, N.	Con.	Ditto.
Shafto, R. D.....	Durham, N.	Lib.	Ditto.
Shirley, E. J. ..	Warwickshire, S.	Con.	Ditto.
Sidney, T.	Stafford	Lib.	Ditto.
Somerton, Visct.	Wilton	Con.	Ditto.
Stanley, E.	Cumberland, W.	Con.	Ditto.
Stephenson, R...	Whitby	Con.	Ditto.
Stuart, Lord D. C.	Marylebone	Lib.	Opposed to the maintenance of any religious disabilities, and to all religious endowments.
Sturt, H. G.....	Dorchester	Con.	Opposed to endowment of R. C. Church.
Talfourd, T. N.†	Reading	Lib.	Opposed to endowment of R. C. clergy.
Townley, R. G.	Cambridgeshire .	Lib.	Ditto.
Tynte, C. J. K.	Bridgewater	Lib.	Ditto.
Vivian, J. E.....	Truro	Con.	Ditto.
Waddington, D.	Maldon	Con.	Ditto.
Westhead, J. P.	Knaresborough..	Lib.	Opposed to all religious endowments out of the national revenue.
Willcox, B.	Southampton ..	Lib.	Opposed to the application of any part of the public funds to religious endowments.
Willyams, H. ..	Truro	Lib.	Opposed to endowment of R. C. clergy.
Wilson, J.....	Westbury	Lib.	Opposed to religious endowments.
Wyld, J.....	Bodmin	Lib.	Opposed to endowment of R. C. clergy.

* On the decease of Mr. E. M. Mundy, Mr. W. Mundy was elected for South Derbyshire.

†On the decease of Mr. Pattison, Sir James Duke, Bart., was elected for the City of London; and on the elevation of Mr. Sergeant Talfourd to the Bench, Mr. Standford, strongly opposed to the Endowment of Popery, was elected for Reading.

"The names of many other places and Candidates might be given, which are not specified by Mr. Dod; but it is considered better to rest upon the evidence supplied by him, and which is accessible to all.

"Signed, on behalf of the Committee,

"JAMES LORD, *Chairman.*

"*Protestant Association Committee-room,*
"*Nov.* 23, 1849."

APPENDIX H.

THE CROWN OF ENGLAND SUBJECT TO NONE BUT GOD.

The STATUTE OF PRÆMUNIRE, 16 Richard II., c. 5, passed A.D. 1392, against purchasing Bulls from Rome; being an assertion of the supremacy of the Crown, and a protest against the interference of the Bishop of Rome in the affairs of this kingdom, even in the times when the King, the Lords, and Commons, were in communion with the Church of Rome.

WHEREAS, the Commons of the realm in this present Parliament have showed to our redoubted Lord the King, grievously complaining, That, whereas, the said our Lord the King, and all his liege people, ought of right, and of old time were wont to sue in the King's Court to recover their presentments to churches, prebends, and other benefices of holy Church, to the which they had right to present, the cognisance of plea of which presentment belongeth only to the King's Court of the old right of his Crown, used and approved in the time of all his progenitors, kings of England, and when judgment shall be given in

the same Court upon such a plea and presentment, the archbishops, bishops, and other spiritual persons which have institution of such benefices within their jurisdiction, be bound and have made execution of such judgments by the King's commandments of all the time aforesaid without interruption (for another lay person cannot make such execution), and also be bound of right to make execution of many other of the King's commandments, of which right the Crown of England hath been peaceably seised as well in the time of our said Lord the King that now is, as in the time of all his progenitors till this day. But now, of late, divers processes be made by the Bishop of Rome, and censures of excommunication upon certain Bishops of England because they have made execution of such commandments to the open disherison of the said Crown, and destruction of the regality of our said Lord the King, his law, and all his realm, if remedy be not provided.

And also it is said, and a common clamour is made, that the said Bishop of Rome hath ordained and purposed to translate some prelates of the same realm, some out of the realm, and some from one bishopric into another within the same realm, without the King's assent and knowledge, and without the assent of the prelates which so shall be translated, which prelates be much profitable and necessary to our said Lord the King and to all his realm, by which translations (if they should be suffered) the statutes of the realm should be defeated and made void, and his said liege sages of his Council without his assent and against his will carried away and gotten out of his realm, and the substance and treasure of the realm shall be carried away, and so the realm destitute as well of Council as of substance, to the final destruction of the same realm ; AND SO THE CROWN OF ENGLAND, WHICH HATH BEEN SO FREE AT ALL TIMES THAT IT HATH BEEN IN NO EARTHLY SUBJECTION, BUT IMMEDIATELY SUBJECT TO GOD IN ALL THINGS TOUCHING THE REGALITY OF THE SAME CROWN, AND TO NONE OTHER, should be submitted to the Pope, and the laws and statutes of the realm by him defeated and avoided at his will in perpetual destruction of the sovereignty of the King our Lord, his Crown, his regality, and of all his realm, which God defend.

And moreover the Commons aforesaid say, That the said

things so attempted be clearly against the King's Crown and his regality used and approved of the time of all his progenitors; wherefore they, and all the liege commons of the same realm, will stand with our said Lord the King and his said Crown and his regality in the cases aforesaid, and in all other cases attempted against him, his Crown, and his regality, in all points, to live and to die.

And moreover they pray the King, and him require by way of justice, that he would examine all the Lords in the Parliament, as well spiritual as temporal, severally, and all the states of the Parliament, how they think of the cases aforesaid, which be so openly against the King's Crown and in derogation of his regality; and how they will stand in the same cases with our Lord the King in upholding the rights of the said Crown and regality. Whereupon the Lords Temporal so demanded have answered every one by himself, that the cases aforesaid be clearly in derogation of the King's Crown and of his regality, as it is well known, and hath been of a long time known, and that they will be with the same Crown and regality in these cases specially, and in all other cases which shall be attempted against the same Crown and regality, in all points with all their power.

And moreover it was demanded of the Lords Spiritual there being, and the procurators of others being absent, their advice and will in all these cases; which Lords, viz., the archbishops and other prelates, being in the said Parliament severally examined, making protestations that it is not their mind to say nor affirm that the Bishop of Rome may not excommunicate bishops, nor that he may make translation of prelates after the law of holy Church, answered and said, That if any executions of processes made in the King's Court as before be made by any, and censures of excommunications to be made against any bishops of England, or any other of the King's liege people, for that they have made execution of such commandments; and that if any executions of such translations be made of any prelates of the said realm, which prelates be very profitable and necessary to our said Lord the King, and to his said realm, or that the sage people of his council without his assent and against his will, be removed and carried out of the realm, so that the substance and treasure of the realm may be consumed, that the

same is against the King and his Crown, as it is contained in the petition before named. And likewise the same procurators, every one by himself, examined upon the said matters, have answered and said, in the name and for their lords, as the said bishops have said and answered, and that the said lords spiritual will and ought to be with the King in these cases, in lawfully maintaining of his Crown, and in all other cases touching his Crown and his regality, as they be bound by their liegiance;

Whereupon our said Lord the King by the assent aforesaid, and at the request of his said Commons hath ORDAINED and ESTABLISHED, That if any purchase or pursue or cause to be purchased or pursued in the Court of Rome, or elsewhere, by any such translations, processes, and sentences of excommunications, bulls, instruments, OR ANY OTHER THINGS WHATSOEVER WHICH TOUCH THE KING, against him, his CROWN and his REGALITY, or his REALM as is aforesaid, and they which bring within the realm, or them receive or make thereof notification, or any other execution whatsoever within the same realm or without, that they, their notaries, procurators, maintainers, abettors, fautors, and councillors shall be put out of the King's protection, and their lands and tenements, goods and chattels, forfeit to our Lord the King, and that they be attached by their bodies, if they may be found and brought before the King and his Council, there to answer for the cases aforesaid, or that process be made against them by *Præmunire facias* in manner as it is ordained in other statutes of provisors, and other which do sue in any other Court in derogation of the regality of our Lord the King.

APPENDIX (I.)

CORONATION OATH.

STAT. 1 WILLIAM AND MARY, SESS. 1, C. 6, A.D. 1688. (O.S.)

An Act for Establishing the Coronation Oath.

WHEREAS by the law and ancient usage of this realm, the kings

and queens thereof have taken a solemn oath upon the Evangelists at their respective coronations, to maintain the statutes, laws, and customs of the said realm, and all the people and inhabitants thereof in their spiritual and civil rights and properties ; but forasmuch as the oath itself on such occasions administered, hath heretofore been framed in doubtful words and expressions, with relation to ancient laws and constitutions at this time unknown. To the end, therefore, that one uniform oath may be in all times to come taken by the kings and queens of this realm, and to them respectively administered at the times of their and every of their coronation ; may it please your Majesties that it may be enacted.

2. And be it enacted by the King's and Queen's Most Excellent Majesties, by and with the advice and consent of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the authority of the same, that the oath herein mentioned, and hereafter expressed, shall and may be administered to their Most Excellent Majesties King William and Queen Mary (whom God long preserve), at the time of their coronation, in the presence of all persons that shall be then and there present at the solemnizing thereof, by the Archbishop of Canterbury or the Archbishop of York, or either of them, or any other Bishop of this realm, whom the King's Majesty shall thereunto appoint, and who shall be hereby thereunto respectively authorized ; which oath followeth, and shall be administered in this manner ; that is to say,— Oath.

3. *The Archbishop or Bishop shall say*,—"Will you solemnly promise and swear to govern the people of this kingdom of England, and the dominions thereto belonging, according to the statutes in Parliament agreed on, and the laws and customs of the same ?"

The King and Queen shall say,—"I solemnly promise so to do."

Archbishop or Bishop.—"Will you to your power cause law and justice in mercy to be executed in all your judgments ?"

King and Queen.—"I will."

Archbishop or Bishop.—"Will you to the utmost of your power maintain the laws of God, the true profession of the Gospel, and the Protestant Reformed Religion established by law? And will you preserve unto the bishops and clergy of

this realm, and to the churches committed to their charge, all such rights and privileges, as by law do or shall appertain unto them or any of them?"

King and Queen.—"All this I promise to do."

After this the King and Queen laying his and her hand upon the Holy Gospel, shall say,—

King and Queen.—"The things which I have herebefore promised I will perform and keep; so help me God."

Then the King and Queen shall kiss the book.

All Kings, &c., to take the oath.

4. And be it further enacted, that the said oath shall be in like manner administered to every King or Queen who shall succeed to the imperial Crown of this realm, at their respective coronations, by one of the archbishops or bishops of this realm of England, for the time being, to be thereunto appointed by such King or Queen respectively and in the presence of all persons that shall be attending, assisting, or otherwise present at such their respective coronations; any law, statute, or usage to the contrary notwithstanding.

DECLARATION AGAINST TRANSUBSTANTIATION.

Sec. 2 of the 12 and 13 W. III., c. 12, commonly called the Act of Settlement, re-enacting sec. 10 of Stat. 1 W. and M., sess. 2, c. 2, commonly called the Bill of Rights, provides that every King and Queen of the realm of the age of twelve years shall make, subscribe, and audibly repeat the following declaration mentioned in the 30th of King Charles II., St. 2:—

"I, A. B., do solemnly and sincerely, in the presence of God, profess, testify, and declare, that I do believe, that in the Sacrament of the Lord's Supper there is not any transubstantiation of the elements of bread and wine into the body and blood of Christ, at or after the consecration thereof by any person whatsoever; and that *the invocation or the adoration of the Virgin Mary or any other saint, and the sacrifice of the Mass, as they are now used in the Church of Rome,* ARE SUPERSTITIOUS AND IDOLATROUS. And I do solemnly, in the presence of God, profess, testify, and declare, that I do make this declaration, and every part thereof, in the plain and ordinary sense of the words read unto me, as they are commonly understood

by English Protestants, without any evasion, equivocation, or mental reservation whatsoever, and without any dispensation already granted me for this purpose by the Pope or any other authority or person whatsoever, or without any hope of any such dispensation from any person or authority whatsoever, or without thinking that I am or can be acquitted before God or man, or absolved of this declaration, or any part thereof, although the Pope or any other person or persons, or power whatsoever shall dispense with or annul the same, or declare that it was null and void from the beginning."

*** The oaths of allegiance, supremacy, and abjuration, &c., taken by *subjects*, are to be found in No. 57 of the publications of the Protestant Association.

APPENDIX (J.)

LETTER OF THE RIGHT HONOURABLE THE LORD BEAUMONT, TO THE RIGHT HONOURABLE THE EARL OF ZETLAND.

"*Dublin, Nov.* 28, 1850.

"My dear Lord Zetland,—I perceive that the newspapers have announced the intention of the High Sheriff to call a public meeting to consider the propriety of addressing the Crown, on the late insult offered to this country by the Court of Rome; and I learn from the same sources of information, that the step on the part of the High Sheriff has been taken in consequence of a requisition signed by nearly all the resident Peers in Yorkshire. It is a matter not only of no surprise, but of no regret to me, that such a proceeding should be adopted by the country, for the acts in question are of quite as much political and social importance as of religious and sectarian

character. The Pope, by his ill-advised measures, has placed the Roman Catholics in this country in a position where they must either break with Rome, or violate their allegiance to the constitution of these realms; they must either consider the Papal Bull as null and void, or assert the right of a foreign prince to create, by his sovereign authority, English titles, and to erect English bishoprics. To send a bishop to Beverley, for the spiritual direction of the Roman Catholic clergy in Yorkshire, and to erect a see of Beverley, are two very different things,—the one is allowed by the tolerant laws of the country; the other requires territorial dominion and sovereign power within the country. If you deny that this country is a fief of Rome, and that the Pontiff has any dominion over it, you deny his power to create a territorial see, and you condemn the late Bull as 'sound and fury, signifying nothing.' If, on the contrary, you admit his power to raise Westminster into an archbishopric, and Beverley into a bishopric, you make over to the Pope a power which, according to the Constitution, rests solely with the Queen and her Parliament, and thereby infringe the prerogative of the one, and interfere with the authority of the other. It is impossible to act up to the spirit of the British Constitution, and at the same time to acknowledge the jurisdiction of the Pope in local matters. Such is the dilemma in which the lately-published Bull places the English Roman Catholics. I am not, however, sufficiently acquainted with their views on the subject, or their intentions respecting it, to give any opinion as to the effect this newly-assumed authority of Rome will have upon their conduct; but I am inclined to believe that the "Tablet" and "L'Univers" newspapers speak the sentiments of the zealous portions of the Roman Catholic community, and that they are the real, if not the avowed, organs of the priesthood. The Church of Rome admits of no moderate party among the laity: moderation in respect to her ordinances is lukewarmness, and the lukewarm she invariably spues out of her mouth. You must be with her against all opponents, or you are not of her; and, therefore, when Rome adopts a measure such as the present, it places the laity in the awkward dilemma I have alluded to. Believing, therefore, that the late bold and clearly expressed edict of the Court

of Rome cannot be received or accepted by English Roman Catholics without a violation of their duties as citizens, I need not add, that I consider the line of conduct now adopted by Lord John Russell, as that of a true friend of the British Constitution.

"Believe me, my dear Lord Zetland, yours very truly,

"BEAUMONT.

"*To the Right Hon. the Earl of Zetland.*"

LETTER FROM HIS GRACE THE DUKE OF NORFOLK TO THE LORD BEAUMONT.

"*Arundel Castle, Nov.* 28, 1850.

"My dear Lord,—I so entirely coincide with the opinions in your letter to Lord Zetland, that I must write to you to express my agreement with you. I should think that many must feel as we do, that ultramontane opinions are totally incompatible with allegiance to our Sovereign and with our Constitution.

"I remain, my dear Lord, faithfully yours,

"NORFOLK.

"*To the Lord Beaumont.*"

APPENDIX (K).

PAPAL USURPATION.

TO THE EDITOR OF THE "MORNING HERALD."

Sir,—In my letter, which appears in your paper of Friday, I expressed an intention of writing something further respecting the legislative enactments now in existence on the subject of Romish usurpations.

There is considerable difficulty, I find, experienced on the part of others, as well as myself, in coming to a conclusion upon the matter. It seems, indeed, in some degree to involve the proof of a negative. What once was the law is easily ascertained; but to pronounce with certainty that those usages or enactments constituting that law have not been repealed or rendered comparatively inoperative, requires a far greater amount of legal knowledge and a minuteness of research and labour, which few as yet have, I believe, bestowed upon this particular question.

So many changes have been made in modern times, during the last ten or twenty years in particular, repealing, or what is more perplexing, in part repealing, modifying, or altering various enactments, that few even of those who have investigated the questions so suddenly thrust upon the attention of the public can point out definitely and distinctly what are the Acts and sections of Acts repealed, and what are the Acts or portions of Acts now in *operation*—perhaps I should rather say, in *existence*, for they will remain a dead letter, unless Her Majesty's Attorney-General, or the Secretary of State for the Home Department, as the prime moving powers, put, or consent to their being put in operation. Could they who now fill those important offices and hold such dignified positions adopt a course at once more constitutional and more popular than by doing so without delay?

The conclusions, however, at which I have arrived are based upon a very close and minute examination of our Statute Book, of the productions of various legal and constitutional writers, and upon other sources of information; and though the story is related of a learned functionary, once appointed to a judicial office, that he was recommended always to give his judgment, but never to give the reason upon which such judgment was founded, I prefer giving the reasons to withholding them. If wrong in my opinion respecting the law on the question, and I do not believe I can be shown to be wrong, it will be open to others to point out wherein I have erred in coming to my present conclusion.

Let me, then, with regard to the data upon which I have proceeded, state—

1. That scarcely a Bill has been brought into the House of Commons upon the subject for the last twenty years which I have not closely watched, and that not one such Bill has passed into a law with the provisions of which I have not been acquainted.

2. Besides this, I have examined carefully the list of repealed or altered statutes given at the end of each session of Parliament.

3. That Mr. Crabbe's valuable, learned, and laborious work, "A Digest and Index, with Chronological Tables, of all the Statutes, from Magna Charta to the end of the Present Session," printed in 1844, in four volumes, has been carefully examined by me.

4. That Mr. Stamp's "Index to the Statute Law of England to the close of the Session 10th and 11th Vict., 1847," has been also examined.

5. That I have conversed with those far better qualified from their Parliamentary and professional experience than myself to give an opinion *ex cathedrâ*, yet I find nothing adverse to the opinion formed by me and hereinafter expressed.

By these various means, it might be supposed, sufficient caution had been taken to prevent falling into error. But there is one other source—a Roman Catholic one, and one which, therefore, in such questions I highly value—from which information is to be drawn. I must, therefore, mention—

6. A work by Mr. Anstey (published in 1842), a Roman Catholic barrister, M.P., &c.—viz., "A Guide to the Laws of England affecting Roman Catholics."

Before, however, quoting from or referring more minutely to recent enactments, let me observe that various provisions on the subject of Popery have been made from 18 Geo. III. inclusive, to the present time, in the following Acts, viz.:—18 Geo. III., c. 60; 31 Geo. III., c. 32; 3 Geo. IV., c. 126; 10 Geo. IV., c. 7; 2 and 3 Wm. IV., c. 30: 2 and 3 Wm. IV., c. 115; 4 and 5 Wm. IV., c. 73; 5 and 6 Wm. IV., c. 76; 3 and 4 Vict., c. 52.

Mr. Crabbe, having cited these statutes, adds, "since which have passed the 7 and 8 Vict., c. 102, and 9 and 10 Vict., c. 59."

These two last Acts made alterations in somewhere about

fifty and sixty Acts of Parliament and portions of Acts of Parliament, running over a period of more than 300 years, from the 5th of Edw. VI. to this time. But in the few important Acts upon this subject which have passed since Mr. Anstey's book was written, I find nothing at variance with his opinion, quoted below.

Mr. Anstey, being himself a Roman Catholic, has thus expressed his opinion on the subject, and that, too, before the events which have now given special importance to the question had taken place. Having quoted 27 Edw. III., s. 1, c. 1, 38 Edw. III, s. 2, c. 1, and 16 Rich. II., c. 5, he observes, at page 68:—

"This Act (16 Rich. II., c. 5) is the one to which almost all the subsequent statutes refer in enacting against new offences the penalties of Præmunire. From this circumstance rather than from any more reasonable cause it has generally been called the 'Statute of Præmunire.'

"These are the only provisions in the ancient Acts passed in derogation of Papal jurisdiction which seem applicable to Roman Catholics in England at the present day. The law of provisors and purveyors is out of date as far as they are concerned. That law regards the benefices and endowments of the Established Church, and, therefore, any mention of it would be out of place in a book not treating of the laws and immunities of that Establishment.

"But it is clear, upon principle, that the provisions cited are perfectly applicable to English Roman Catholics and their suits at this day—(1842).

"Whatever controversies may arise among them as to matters cognisable at law or in equity, cannot be adjudicated at Rome, or by authority derived from Rome, without the peril of Præmunire, and all its liabilities above enumerated."

For such opinion Mr. Anstey gives the following reason:—

"For *the Relief Acts were not intended to alter the laws passed previously to the Reformation against the authority of the Holy See*, but only to mitigate some of the severities enacted against Roman Catholics subsequently to the establishment of Protestantism as the religion of the land."

By no Act that I find since passed have the above laws been repealed, and I concur, therefore, in the view taken by Mr.

Anstey, that the Acts referred to by him are applicable to English Roman Catholics in the present day. The statute of 16 Rich. II., c. 5, seems, therefore, to be for all practical purposes still in force, and that Act provides as follows :—

"That if any purchase or pursue, or cause to be purchased or pursued, in the Court of Rome, or elsewhere, any such translations, processes, and sentences of excommunications, bulls, instruments, or any other things whatsoever which touch the King, against him, his Crown, and his royalty, or his realm, as is aforesaid ; or them receive or make thereof notification, or any other execution whatsoever within the same realm, or without, that they, their notaries, procurators, maintainers, abettors, fautors, and counsellors, shall be put out of the King's protection, and their lands and tenements, goods and chattels, forfeit to our Lord the King : and that they be attached by their bodies, if they may be found, and brought before the King and his Council, there to answer to the cases aforesaid, or that process be made against them by *præmunire facias*, in manner as it is ordained in other statutes of provisors, and other which do sue in any other court in derogation of the Royalty of our Lord the King."

With regard to the more recent Acts, dating about the period of the Reformation, no one in Parliament seems to have laboured with greater energy, and, in some respects, with more success than Mr. Anstey, in procuring a repeal or modification of the laws affecting Roman Catholics.

Latterly, however, his efforts have not been so successful. By the Bill brought into Parliament on this subject in November, 1847, by Mr. Anstey and Mr. W. S. O'Brien, he was desirous of repealing further portions of the 1st Eliz., c. 1, and the remaining portions of the 13th Eliz., c. 2. What was the fate of this Bill ? On referring to "Hansard's Parliamentary Debates," I find that this Bill, after much discussion, and many divisions, was thrown out July 19, 1848.

But with an energy and a perseverance worthy of a better cause, Mr. Anstey, on February 6, 1849, moved for leave to bring in a similar Bill ; but leave was refused. In the course of the next year, February 7, 1850, he again moved for leave to bring in another Bill to the same effect. Leave was again

refused. Such was even then the improved tone of the House of Commons on the Protestant question.

In that Bill, so thrown out in 1848, Mr. Anstey provided for the repeal of the following portion of the 1st Eliz., c. 1. It was not then repealed. It has not since been repealed. It stands as law at the present day, and provides as follows :—

" That if any person or persons dwelling or inhabiting within this your realm, or in any other your Highness's realms or dominions, of what estate, dignity, or degree soever he or they be, after the end of thirty days next after the determination of this Session of this present Parliament, shall by writing, printing, teaching, preaching, express words, deed, or act, advisedly, maliciously, and directly, affirm, hold, stand with, set forth, maintain, or defend, the authority, pre-eminence, power, or jurisdiction, spiritual or ecclesiastical, of any foreign prince, prelate, person, state, or potentate whatsoever, heretofore claimed, used, or usurped within this realm, or any dominion or country being within or under the power, dominion, or allegiance of your Highness, or shall advisedly, maliciously, and directly put in use or execute anything for the extolling, advancement, setting forth, maintenance, or defence of any such pretended or usurped jurisdiction, power, pre-eminence, and authority, or any part thereof, that then every such person and persons so doing and offending, their abettors, aiders, procurers, and counsellors, being thereof lawfully convicted and attainted according to the due order and course of the common laws of this realm, for his or their first offence shall forfeit and lose unto your Highness, your heirs and successors, all his and their goods and chattels, as well real as personal. And if any such person so convicted or attainted shall not have or be worth of his proper goods and chattels to the value of 20*l.* at the time of his conviction or attainder, that then every such person so convicted or attainted, over and besides the forfeiture of all his said goods and chattels, shall have and suffer imprisonment by the space of one whole year, without bail or mainprise."

Such is a portion of the statutory provision. I have said nothing of the common law. There are also provisions of other Acts, too long and numerous here to be noticed. But in the Memorials, Addresses, Petitions, or Remonstrances, it may be

amply sufficient at the present time to express our unshaken fidelity to Her Majesty's person and family, our attachment to Protestant principles, and our earnest hope for the enforcement or enactment of such laws as may be necessary for the protection of the Crown, the religion, the liberties of the British Empire against the interference of the Pope or Bishop of Rome; without pointing out what laws are violated, or what new enactments may be required.

I have the honour to remain,

Your obedient Servant,

JAMES LORD.

6, *Serjeants'-inn, Fleet-street, Nov.* 11, 1850.

APPENDIX (L).

THE QUEEN'S DECLARATIONS,

In Answers to the Addresses (on the subject of the present act of Papal insult, aggression and encroachment) of the Universities of Cambridge and Oxford, and the Corporation and City of London, on Tuesday, the 10*th December*, 1850, *at Windsor Castle;—the first presented and read by his Royal Highness, the Prince Consort; the second by his Grace the Duke of Wellington, Chancellors of the respective Universities.*

I.—TO THE UNIVERSITY OF CAMBRIDGE.

"I fully participate in your expression of gratitude to Almighty God for the blessings which he has been pleased to bestow upon this country, and I rejoice in the proofs which have been given of the zealous and undiminished attachment of the English people to the principles asserted at the Reformation.

"While it is my earnest wish that complete freedom of conscience should be enjoyed by all classes of my subjects, it is my constant aim to uphold the just privileges, and extend the useful-

ness of the Church established by law in this country, and to secure to my people the full possession of their ancient rights and liberties."

II.—To the University of Oxford.

"It has ever been, and ever will continue to be, my endeavour to promote the efficiency and maintain the purity of our Reformed Church, the supreme government of which, under God, is by law confided to me, and it is highly gratifying to me to be assured of your faithful adherence to its principles, doctrine, and discipline.

"While I cordially concur in the wish that all classes of my subjects should enjoy the free exercise of their religion, you may rely on my determination to uphold alike the rights of my crown, and the independence of my people against all aggressions, and encroachments of any foreign power."

III.—To the Lord Mayor and Aldermen of the City of London.

"I heartily concur with you in your grateful acknowledgements of the many blessings conferred upon this highly favoured nation, and in your attachment to the Protestant faith, and to the great principles of civil and religious liberty, in the defence of which the City of London has ever been conspicuous.

"That faith and those principles are so justly dear to the people of this country, that I confidently rely on their cordial support in upholding and maintaining them against any danger with which they may be threatened, from whatever quarter it may proceed."

IV.—To the Lord Mayor, Aldermen, and Commons of the City of London, in Common Council Assembled.

"You may be sure of my earnest desire and firm determination, under God's blessing, to maintain unimpaired the religious liberty which is justly prized by the people of this country, and to uphold as its surest safeguard the pure and scriptural worship of the Protestant faith, which has long been happily established in this land."

V.—To the Lord Mayor, Aldermen, and the rest of the Queen's Commissioners of Lieutenancy for the City of London.

"It will continue to be, as it has ever been, my earnest endeavour, in the exercise of the power and authority intrusted to me, as the supreme governor of this realm, to maintain the independence and uphold the constitutional liberties of my people against all aggression and encroachment." *

APPENDIX (M).

THE BISHOPS' OATH TO THE POPE AND TO THE KING.

INTRODUCTION, P. XXIII.

The whole passage is thus given by Hall, in his "Chronicles:"—

"The XI-day of Maie the King sent for the Speker again and XII. of the Common house, havying with hym eight Lordes and saied to them, "Welbeloved subjectes, we thought that the clergiè of our realm had been our subjectes *wholly*, but now wee have well perceived that they bee but *halfe* our subjectes; yea, and *scace* our subjectes; for all the prelates at their consecracion make an othe to the Pope clene contrarie to the othe that they make to us, so that they seme to be his subjectes, and not ours. The copie of bothe the others I delivre here to you, requiryng you to invent some ordre, that we bee not thus deluded, of our Spirituall subjectes.

"The Speker departed and caused the othes to be redde in the cōmon house, the very tenor whereof ensueth.

"I, Jhon bishop or abbot of A frō this houre forward, shalbe faithefull and obedient to saincte Peter and to the holy churche of Rome, and to my lorde the Pope, and his

* See Mr. Warren's able pamphlet, "The Queen or the Pope," page 111.

successors canonically enteryng, I shall not be of counsaill nor concent, that they shall lese either life or member, or shall bee taken, or suffre any violence, or any wrong by any meanes, their counsaill to me credited, by theim their messyngers or letters, I shall not willyngly discover to any person the Papacie of Rome, the rules of the holy fathers, and the Regalie of sainct Peter, I shall help and retain, and defende against all men. The Legate of the Sea Apostolicke goyng and commyng I shall honourably entreate, the rightes, honors, priuileges, aucthorities of the Church of Rome, and of the Pope and his successors, I shall cause to be conserued, defended, augmented, and promoted, I shall not bee in counsaill, treatie, or any acte, in the whiche any thyng shalbe imagined against hym, or the Churche of Rome, their rightis, states, honors or powers. And if I knowe any suche to bee moued or compassed, I shall resist it to my power, and as sone as I can, I shall advertise hym or such as maie geue hym knowledge. The rules of the holy fathers, the Decrees, Ordinaunces, Sentences, Disposicions, Reseruacions, Prouisions, and Commaundementes Apostolicke, to my power I shall kepe and cause to be kept of other: Heretickes, Sismatikes, and rebelles to our holy father and his successors, I shal resist and persecute to my power, I shall come to the Sinode, when I am called, except I be letted by a Canonicall impediment, the lightes of the Apostles I shall visite yerely personally, or by my deputie, I shall not alien nor sell my possessions without the Popes Counsaill: so God me helpe and the holy Euangelistes."

"I, Jhon Bishop of A. vtterly renounce and clerely forsake all suche clauses, woordes, sentences, and grauntes, whiche I haue or shall haue here after, of the Popes holines, of and for the Bishopricke of A. that in any wise hath been, is or hereafter maie bee hurtefull or preiudiciall to your highness, your heires, successors, dignitie, priuilege, or estate royall; and also I dooe swere, that I shalbe faithfull and true, and faithe and truth, I shall beare to you my souereigne lorde, and to your heires kynges of the same, of life and lymme, and yearthly worship aboue all creatures, for to liue and dye with you and yours, against all people, and diligently I shalbe attendant to all your nedes and busines, after my witt and power, and your counsaill I shall kepe and holde, knowlegyng my self to

hold my bishopricke of you onely, besechying you of restitucion of the temporalties of the same, promisyng as before, that I shalbe faithefull, true, and obedient subiect to your saied highnes heires and successors durying my life, and the seruices and other thynges dewe to yoore highnes for the restitucion of the Temporalties of the same Bishoprike I shall truly dooe and obediently perfourme, so God helpe me and all sainctes."

"The openyng of these othes, was one of the occasions why the Pope within two yere folowyng, lost all his iurisdiccion in Englande, as you shall here afterward. The xiiii daie y^e^ parliament was proroged til the iiii daie of February next ensuyng. After whiche prorogacion, Sir Thomas More, Chauncéllor of Englàde, after long sutes madè to the kyng to be discharged of that office, the xvi daie of Maie he deliuered to the kyng, at Westminster, the greate seale of Englande, and was with the kynges fauor discharged, whiche seale the kyng kept til Whitsontide followyng, and on the Mondaie in Whitson weke, he dubbed Thomas Awdeley, Speker of the parliament, knight, and made hym lorde keeper of the great seale, and so was he called."—*Hall's Chronicles*, Ed. 1809, pp. 788, 789; Ed. of 1550, p. 205; xxiv. year of Henry VIII.

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